

Texas Historical Statutes Project

1942 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1936



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VERNON'S TEXAS STATUTES

CENTENNIAL EDITION

1942 SUPPLEMENT

Covering
Laws of General Nature Enacted by the Legislature
at the Regular and Called Sessions From
January 14, 1941 to January 1, 1942

47th Legislature, Regular Session
47th Legislature, 1st Called Session

TABLES AND INDEX

KANSAS CITY, MO.
VERNON LAW BOOK COMPANY

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TEX. ST. SUPP. '42

THIS VOLUME

THIS 1942 supplement to Vernon's 1936 Centennial Edition contains the laws of a general and permanent nature passed at the Regular and First Called Sessions of the 47th Legislature and connects directly with Vernon's 1939 Cumulative Supplement.

Classification. The classification of the laws and their arrangement conforms exactly to that of the Centennial Edition.

Annotated Statute Identical in Arrangement. This supplement as well as the Centennial Edition are under the same classification and arrangement as Vernon's Annotated Texas Statutes. This means that users of this volume and of the Centennial Edition may go from any article herein to the same article in Vernon's Annotated Texas Statutes where the complete constructions of the law by state and federal courts, as well as complete historical data relative to the origin and development of the law, is immediately available.

Special Features. The same practical features which have served to popularize the Centennial Edition such as complete index, tables, etc., are continued in this supplement.

Acknowledgment. The publisher extends appreciative thanks to the office of the Secretary of State in the work of verifying the accuracy of the text.

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*

JUDGES AND OFFICERS

Supreme Court

JAMES P. ALEXANDER, CHIEF JUSTICE
JOHN H. SHARP, JUSTICE RICHARD CRITZ, JUSTICE
S. A. PHILQUIST, CLERK

Commission of Appeals

Section A

J. D. HARVEY, PRESIDING JUDGE
J. E. HICKMAN, JUDGE FEW BREWSTER, JUDGE

Section B

G. B. SMEDLEY, PRESIDING JUDGE
W. M. TAYLOR, JUDGE C. S. SLATTON, JUDGE

Court of Criminal Appeals

FRANK LEE HAWKINS, PRESIDING JUDGE
HARRY N. GRAVES, JUDGE TOM L. BEAUCHAMP, JUDGE
CHARLES G. KRUEGER, JUDGE
LLOYD W. DAVIDSON, JUDGE
OLIN W. FINGER, CLERK

Courts of Civil Appeals

First District—Galveston

WALTER E. MONTEITH, CHIEF JUSTICE
GEORGE W. GRAVES, JUSTICE T. H. CODY, JUSTICE
H. L. GARRETT, CLERK

Second District—Fort Worth

ATWOOD McDONALD, CHIEF JUSTICE
MARVIN H. BROWN, JUSTICE JOHN SPEER, JUSTICE
J. A. SCOTT, CLERK

Third District—Austin

JAMES W. McCLENDON, CHIEF JUSTICE
MALLORY B. BLAIR, JUSTICE J. HARVEY BAUGH, JUSTICE
R. E. MOORE, CLERK

JUDGES AND OFFICERS

Courts of Civil Appeals—Cont'd.

Fourth District—San Antonio

EDWARD W. SMITH, CHIEF JUSTICE

W. O. MURRAY, JUSTICE

JAMES R. NORVELL, JUSTICE

ROBERT L. COOK, CLERK

Fifth District—Dallas

JOEL R. BOND, CHIEF JUSTICE

B. F. LOONEY, JUSTICE

TOWNE YOUNG, JUSTICE

JUSTIN G. BURT, CLERK

Sixth District—Texarkana

GEORGE W. JOHNSON, CHIEF JUSTICE

REUBEN A. HALL, JUSTICE

I. N. WILLIAMS, JUSTICE

R. B. HOLLINGSWORTH, CLERK

Seventh District—Amarillo

M. J. R. JACKSON, CHIEF JUSTICE

W. N. STOKES, JUSTICE

A. J. FOLLEY, JUSTICE

J. M. OAKES, CLERK

Eighth District—El Paso

P. R. PRICE, CHIEF JUSTICE

ANDERSON M. WALTHALL, JUSTICE

C. R. SUTTON, JUSTICE

J. I. DRISCOLL, CLERK

Ninth District—Beaumont

DANIEL WALKER, CHIEF JUSTICE

WILLIAM B. O'QUINN, JUSTICE

J. M. COMBS, JUSTICE

W. G. WOODARD, CLERK

Tenth District—Waco

BEN H. RICE, JR., CHIEF JUSTICE

JAKE TIREY, JUSTICE

JOSEPH W. HALE, JUSTICE

RUTH SAPP, CLERK

Eleventh District—Eastland

WILLIAM PHARMER LESLIE, CHIEF JUSTICE

O. C. FUNDERBURK, JUSTICE

CLYDE GRISSOM, JUSTICE

DAN CHILDRRESS, CLERK

OFFICIALS OF THE STATE OF TEXAS

GOVERNOR - - - - - Coke R. Stevenson - Junction
 SECRETARY OF STATE - - - Wm. J. Lawson - Austin
 ATTORNEY GENERAL - - - Gerald C. Mann - Dallas

OFFICERS AND MEMBERS OF THE FORTY-SEVENTH LEGISLATURE

SENATE

President Pro-Tem ad Interim - H. L. Winfield, Ft. Stockton
 Secretary - - - - - Bob Barker, Fort Worth

<i>Name</i>	<i>District</i>
Aikin, A. M., Jr. - - - - - Paris - - - - -	8
Beck, E. Harold - - - - - Texarkana - - - - -	1
Brownlee, Houghton - - - - - Austin - - - - -	20
Chadick, T. C. - - - - - Quitman - - - - -	7
Cotten, Clay - - - - - Palestine - - - - -	6
Fain, Clem - - - - - Livingston - - - - -	5
Formby, Marshall - - - - - Plainview - - - - -	30
Graves, W. C. - - - - - Dallas - - - - -	11
Hazlewood, Grady - - - - - Amarillo - - - - -	31
Hill, Joe L. - - - - - Henderson - - - - -	2
Isbell, Claude - - - - - Rockwall - - - - -	10
Kelley, Rogers - - - - - Edinburg - - - - -	27
Lanning, R. C. - - - - - Jacksboro - - - - -	22
Lemens, Vernon - - - - - Waxahachie - - - - -	12
Lovelady, Karl L. - - - - - Meridian - - - - -	21
Martin, Jesse E. - - - - - Fort Worth - - - - -	28
Mauritz, Fred - - - - - Ganado - - - - -	18
Metcalfe, Penrose B. - - - - - San Angelo - - - - -	25
Moffett, George - - - - - Chillicothe - - - - -	23
Moore, Weaver - - - - - Houston - - - - -	16
Ramsey, Ben - - - - - San Augustine - - - - -	3
Shivers, Allan - - - - - Port Arthur - - - - -	4
Smith, John Lee - - - - - Throckmorton - - - - -	24
Spears, J. Franklin - - - - - San Antonio - - - - -	26
Stone, William E. - - - - - Galveston - - - - -	17
Sulak, L. J. - - - - - LaGrange - - - - -	15
Van Zandt, Olan R. - - - - - Tioga - - - - -	9
Vick, Kyle - - - - - Waco - - - - -	13
Weinert, R. A. - - - - - Seguin - - - - -	19
Winfield, H. L. - - - - - Fort Stockton - - - - -	29
York, J. Alton - - - - - Bryan - - - - -	14

OFFICIALS OF THE STATE OF TEXAS

HOUSE OF REPRESENTATIVES

Speaker - - - - - Homer Leonard

Chief Clerk - - - - - E. R. Lindley

<i>Name</i>	<i>District</i>
Allen, Bruce - - - - -	Waxahachie - - - - - 100-2
Allison, Mack - - - - -	Stephenville - - - - - 105
Alsup, Lon E.* - - - - -	Carthage - - - - - 7
Avant, Robert - - - - -	Harleton - - - - - 5
Bailey, W. J. - - - - -	Winnsboro - - - - - 34
Baker, Noel - - - - -	Gilmer - - - - - 4
Bean, Woodrow W.* - - - - -	Sierra Blanca - - - - - 90f
Bell, John J. - - - - -	Cuero - - - - - 68
Benton, J. A. - - - - -	Wylie - - - - - 45f
Blankenship, Dallas A. - - - - -	Dallas - - - - - 50-5
Boone, Lester - - - - -	Fort Worth - - - - - 101-3
Brawner, Herbert F. - - - - -	Joshua - - - - - 99
Bray, Clayton* - - - - -	Longview - - - - - 6f
Bridgers, W. W. - - - - -	El Paso - - - - - 89-2
Brown, Sherwood, Jr. - - - - -	Galveston - - - - - 17f
Bruhl, L. L. - - - - -	Llano - - - - - 85
Bullock, Pat - - - - -	Snyder - - - - - 118
Bundy, M. A. (Bill) - - - - -	Wichita Falls - - - - - 111-2
Burkett, Omar - - - - -	Cisco - - - - - 107f
Burnaman, N. O. - - - - -	Newton - - - - - 13
Carlton, Leonard - - - - -	Commerce - - - - - 42f
Carrington, Joe C. - - - - -	Austin - - - - - 82-2
Cato, Arthur - - - - -	Weatherford - - - - - 103
Celaya, Augustine - - - - -	Brownsville - - - - - 72
Chambers, W. R. - - - - -	May - - - - - 125
Clark, Lester - - - - -	Breckenridge - - - - - 108
Cleveland, E. J.* - - - - -	Buda - - - - - 81-2
Coker, E. A. - - - - -	Livingston - - - - - 28
Colson, Mrs. Neveille - - - - -	Navasota - - - - - 27f
Connelly, John - - - - -	Trenton - - - - - 41
Craig, Richard - - - - -	Miami - - - - - 124
Crossley, P. L.* - - - - -	Eastland - - - - - 106
Crosthwait, John L. - - - - -	Dallas - - - - - 51f
Daniel, Price - - - - -	Liberty - - - - - 14
Davis, Gordon - - - - -	Waco - - - - - 97-1
Deen, Tom W. - - - - -	Floydada - - - - - 120
Dickson, Fagan* - - - - -	San Antonio - - - - - 78-4
Dickson, R. Temple - - - - -	Sweetwater - - - - - 117
Donald, Paul - - - - -	Bowie - - - - - 47
Dove, Dan - - - - -	Groesbeck - - - - - 61
Duckett, L. L. - - - - -	East Bernard - - - - - 22
Dwyer, Pat - - - - -	San Antonio - - - - - 78-2
Ellis, J. T. - - - - -	Maxwell - - - - - 81-1
Eubank, Paul - - - - -	Matador - - - - - 121
Evans, Roger Q. - - - - -	Denison - - - - - 44-1
Favors, Ennis - - - - -	Pampa - - - - - 122
Ferguson, Walter A. - - - - -	Overton - - - - - 8
Files, Miss Rae - - - - -	Waxahachie - - - - - 100-1
Fitzgerald, H. S. - - - - -	Stamford - - - - - 115

*Resigned or for other reasons not now members. Vacancies have not been filled.

OFFICIALS OF THE STATE OF TEXAS

HOUSE OF REPRESENTATIVES—Continued

<i>Name</i>	<i>District</i>
Fuchs, R. A. - - - - -	Brenham - - - - - 24
Gandy, Joe W. - - - - -	Winnsboro - - - - - 126f
Garland, W. R. - - - - -	Annona - - - - - 36
Gilmer, C. H. - - - - -	Rocksprings - - - - - 86
Goodman, V. E. - - - - -	Fort Worth .. - - - - - 102f
Green, A. N. - - - - -	Cameron - - - - - 64
Halsey (Hop) - - - - -	Lubbock - - - - - 119
Hanna, Sam - - - - -	Dallas - - - - - 50-3
Hardeman, Dorsey B. - - - - -	San Angelo - - - - - 91
Hargis, W. B. - - - - -	Hemphill - - - - - 11
Harris, Fred (Red)* - - - - -	Dallas - - - - - 50-4
Harris, L. W. - - - - -	Whitney - - - - - 59
Hartzog, Howard G. - - - - -	Port Lavaca - - - - - 69
Heflin, James M. - - - - -	Houston - - - - - 19-2
Helpinstill, Jewell - - - - -	Nacogdoches - - - - - 9
Henderson, Warren - - - - -	Marlin - - - - - 62
Hileman, J. K. - - - - -	Atlanta - - - - - 2
Hobbs, M. A. - - - - -	Hallettsville - - - - - 23
Howard, George F. - - - - -	Houston - - - - - 19-1
Howington, H. F. - - - - -	Comanche - - - - - 104
Hoyo, John C. - - - - -	San Antonio - - - - - 78-5
Huddleston, Earl - - - - -	Oglesby - - - - - 94
Huffman, Cal - - - - -	Eagle Pass - - - - - 87
Hughes, Duncan S. - - - - -	Georgetown - - - - - 83
Humphrey, Joe C. - - - - -	Abilene - - - - - 116
Hutchinson, Everett - - - - -	Hempstead - - - - - 20
Isaacks, S. J. - - - - -	El Paso - - - - - 89-1
Jones, Albert M. - - - - -	Valley Mills - - - - - 98f
Kelley, Kirby - - - - -	Huntsville - - - - - 29
Kennedy, Harold L. - - - - -	Palestine - - - - - 55
Kersey, Clinton - - - - -	Bridgeport - - - - - 48
Kinard, DeWitt - - - - -	Port Arthur - - - - - 15f
King, A. H. - - - - -	Throckmorton - - - - - 113
Klingeman, Fred V. - - - - -	Karnes City - - - - - 79
Knight, Roger A. - - - - -	Madisonville - - - - - 56
Lansberry, Chas. V. - - - - -	Round Rock - - - - - 84f
Lehman, Henry G. - - - - -	Giddings - - - - - 65f
Leonard, Homer L. - - - - -	McAllen - - - - - 73
Leyendecker, B. J. - - - - -	Laredo - - - - - 75
Little, G. H. (Jack) - - - - -	Amarillo - - - - - 123
Lock, Ottis E. - - - - -	Zavalla - - - - - 12
Love, Jack - - - - -	Fort Worth - - - - - 101-1
Lowry, Leslie D. - - - - -	Beaumont - - - - - 16-1
Lucas, Jap - - - - -	Athens - - - - - 54
Lyle, John E. - - - - -	Corpus Christi - - - - - 71
McAlister, Obel L. - - - - -	Fort Worth - - - - - 101-2
McCann, Newton W. - - - - -	Texarkana - - - - - 3f
McDonald, W. T. - - - - -	Bryan - - - - - 26
McGlason, Eugene - - - - -	Waco - - - - - 97-2
McLellan, C. S. - - - - -	Eagle Lake - - - - - 25
McMurry, Houston - - - - -	Henrietta - - - - - 110
McNamara, Gene - - - - -	Waco - - - - - 96f

*Resigned.

OFFICIALS OF THE STATE OF TEXAS

HOUSE OF REPRESENTATIVES—Continued

<i>Name</i>	<i>District</i>
Manford, Durwood - - - - -	Smiley - - - - - 67
Manning, Rushing - - - - -	Center - - - - - 10
Markle, Donald - - - - -	Galveston - - - - - 18
Martin, J. H. - - - - -	Wichita Falls - - - - - 111-1
Matthews, Wayne - - - - -	Gladewater - - - - - 33f
Mills, Roger Q. - - - - -	Wichita Falls - - - - - 112f
Montgomery, Wm. Calvin - - - - -	Houston - - - - - 19-3
Moore, Choice - - - - -	Bonham - - - - - 38f
Morgan, M. B. - - - - -	Denison - - - - - 44-2
Morris, G. C. - - - - -	Greenville - - - - - 40
Morse, R. Emmett - - - - -	Houston - - - - - 19-4
Murray, T. O. - - - - -	McKinney - - - - - 43
Nicholson, C. E. - - - - -	Port Neches - - - - - 16-2
Pace, Jim - - - - -	Gainesville - - - - - 46
Parker, R. C. - - - - -	Graham - - - - - 109
Pevehouse, Doyle - - - - -	Corsicana - - - - - 60f
Phillips, Jimmy - - - - -	Angleton - - - - - 21
Price, Ned - - - - -	Tyler - - - - - 32
Rampy, W. H. - - - - -	Winters - - - - - 92
Reed, Jasper N. - - - - -	Texarkana - - - - - 1
Reed, W. O. - - - - -	Dallas - - - - - 50-2
Rhodes, Cecil T. - - - - -	Hearne - - - - - 63
Ridgeway, Jack F. - - - - -	San Antonio - - - - - 78-3
Roark, W. W. - - - - -	Temple - - - - - 95
Roberts, Grady - - - - -	Munday - - - - - 114
Sallas, J. B. - - - - -	Crockett - - - - - 30
Senterfitt, R. E. - - - - -	San Saba - - - - - 93
Sharpe, Ben - - - - -	Paris - - - - - 37
Shell, Harvey J. - - - - -	Gregory - - - - - 70
Simpson, Marvin B., Jr. - - - - -	Fort Worth - - - - - 101-4
Skiles, Joe* - - - - -	Denton - - - - - 49
Smith, J. O. - - - - -	Elgin - - - - - 127
Smith, Magus F. - - - - -	Pleasanton - - - - - 76
Spacek, R. B. - - - - -	Fayetteville - - - - - 66
Spangler, C. P. - - - - -	Uvalde - - - - - 77
Stanford, James A. - - - - -	Austin - - - - - 82-1
Stinson, Jeff D. - - - - -	Dallas - - - - - 50-1
Stubbs, John Peter - - - - -	Wortham - - - - - 57
Taylor, James E. - - - - -	Kerens - - - - - 58
Thornton, P. D. Jr. - - - - -	Mt. Pleasant - - - - - 35
Vale, A. J. - - - - -	Rio Grande City - - - - - 74
Voigt, Frank B. - - - - -	New Braunfels - - - - - 80
Walters, Thomas - - - - -	Pickton - - - - - 39
Wattner, Victor E. - - - - -	Wills Point - - - - - 53
Weatherford, S. F. (Bill) - - - - -	Terrell - - - - - 52
White, Taylor † - - - - -	Odessa - - - - - 88
Whitesides, W. M. - - - - -	Troup, Route 3 - - - - - 31
Williamson, W. A. - - - - -	San Antonio - - - - - 78
Winfree, J. E. - - - - -	Houston - - - - - 19-5

*Resigned or for other reasons not now members. Vacancies have not been filled.

† Killed in auto accident.

RULES OF CIVIL PROCEDURE

Showing articles of Vernon's Annotated Civil and Criminal Statutes deemed to be repealed by the Texas Rules of Civil Procedure and the Rule number where such article is referred to.

Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
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RULES OF CIVIL PROCEDURE

Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
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RULES OF CIVIL PROCEDURE

Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.	Vernon's Ann.Civ.Stats.	Rules of Civ.Proc.
Art.	Rule	Art.	Rule	Art.	Rule
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2187	275	2262	362	2426	553
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2189	277	2264	362	2429	556
2190	279	2265	354	2430	557
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CONSTITUTION OF STATE OF TEXAS

AMENDMENTS

ARTICLE IV

EXECUTIVE DEPARTMENT

Sec. 26

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

(b) Nothing herein shall affect the terms of office of Notaries Public who have qualified for the present term prior to the taking effect of this amendment.

(c) Should the Legislature enact an enabling law hereto in anticipation of the adoption of this amendment, such law shall not be invalid by reason of its anticipatory character. Sec. 26, Art. IV, adopted election Nov. 5, 1940.

ARTICLE V

JUDICIAL DEPARTMENT

Sec. 3-b

The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State. Sec. 3-b, Art. V, adopted election Nov. 5, 1940.

ARTICLE XVI

GENERAL PROVISIONS

Sec. 30b

Wherever by virtue of Statute or charter provisions appointive offices of any municipality are placed under the terms and provisions of Civil Service and rules are set up governing appointment to and removal from such offices, the provisions of Article 16, Section 30, of the Texas Constitution limiting the duration of all offices not fixed by the Constitution to two (2) years shall not apply, but the duration of such offices shall be governed by the provisions of the Civil Service Law or charter provisions applicable thereto. Sec. 30b, Art. XVI, adopted election Nov. 5, 1940.

CONSTITUTION

PROPOSED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 49a

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

From and after January 1, 1945, save in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. From and after January 1, 1945, no bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the Comptroller finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to both the House of Representatives and the Senate and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

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

Approved June 10, 1941.

Proposed by House Joint Resolution No. 1, 47th Leg., Acts 1941, p. 1557, for submission to the People Nov. 3, 1942.

Sec. 49-b

The Legislature may provide by law for the issuance of not more than Two Million Dollars (\$2,000,000) in bonds or obligations of the State of Texas to the Permanent School Fund for the construction in the City of Austin of a State office building or buildings, and the State Board of Ed-

CONSTITUTION

ucation is hereby directed to invest not more than Two Million Dollars (\$2,000,000) of the Permanent School Fund therein. Such bonds shall be executed on behalf of the State of Texas by the Governor and Comptroller, and shall bear a rate of interest not to exceed three (3) per cent per annum, payable annually; they shall be of such denomination as may be prescribed by law, and shall be payable in not to exceed twenty-five (25) equal installments beginning one (1) year from date of issuance; and the State Treasurer is hereby authorized and directed to set aside into a special fund annually at the beginning of each fiscal year until all of said bonds shall have been paid off and discharged, a sufficient amount of the first moneys coming into the Treasury for the use and benefit of the General Revenue Fund not otherwise heretofore obligated to the payment of bonds and interest, a sufficient amount to pay the interest becoming due and the bonds maturing during such fiscal year. From said Fund, the Treasurer shall pay the interest on said bonds as it comes due, to the credit of the Available School Fund; and shall pay off said bonds as they become due and deposit the amounts so paid to the credit of the Permanent School Fund. The power hereby granted to issue bonds is expressly limited to the amount stated and to five (5) years from and after the adoption of this grant by the people.

Approved June 30, 1941.

Proposed by House Joint Resolution No. 23, 47th Leg., Acts 1941, p. 1558, for submission to the People Nov. 3, 1942.

ARTICLE V

JUDICIAL DEPARTMENT

Sec. 22-a

The Legislature shall have the power, by local or general law (without the necessity of advertising any such local law), in counties having a population in excess of two hundred thousand (200,000) inhabitants according to the then last Federal Census, to create other courts having either exclusive jurisdiction or concurrent jurisdiction with the county court in civil, criminal or probate matters.

Approved June 2, 1941.

Proposed by House Joint Resolution No. 24, 47th Leg., Acts 1941, p. 1560, for submission to the People Nov. 3, 1942.

ARTICLE VII

EDUCATION

Senate Joint Resolution No. 21, 47th Leg., Acts 1941, p. 1464, proposed an amendment adding the following section:

The Legislature is authorized to appropriate so much money as may be necessary, not to exceed Seventy-five Thousand (\$75,000.00) Dollars, to pay claims incurred by John Tarleton Agricultural College for the construction of a building on the campus of such college pursuant to deficiency au-

thorization by the Governor of Texas on August 31st, 1937.

Sections 2 and 3 of the Resolution read as follows:

"Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this State at the next general election to be held on the first Tuesday after the first Monday in November, A. D. 1942, at which all ballots

CONSTITUTION

shall have printed thereon: 'For the constitutional amendment authorizing the Legislature to pay for building constructed for John Tarleton Agricultural College;' and

" 'Against the constitutional amendment authorizing the Legislature to pay for building constructed for John Tarleton Agricultural College.'

"Each voter shall scratch out one of said clauses on the ballot, leaving the one ex-

pressing his vote on the proposed amendment.

"Sec. 3. The Governor shall issue the necessary proclamation for said election and have the same published as required by the Constitution and laws of this State. The expenses of publication and election for such amendment shall be paid out of proper appropriation made by law."

Approved June 18, 1941.

For submission to the people, Nov. 3, 1942.

ARTICLE XVI

GENERAL PROVISIONS

Sec. 33

The accounting officers of this State shall neither draw nor pay a warrant upon the Treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust or profit, under this State or the United States, except as prescribed in this Constitution. Provided, that this restriction as to the drawing and paying of warrants upon the Treasury shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, nor to retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Navy, and Marine Corps, nor to officers of the United States Army or Navy who are assigned to duties in State Institutions of higher education.

Approved July 9, 1941.

Proposed by Senate Joint Resolution No.

20, 47th Leg., Acts 1941, p. 1463, for submission to the People Nov. 3, 1942.

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VERNON'S REVISED CIVIL STATUTES OF THE STATE OF TEXAS

TITLE 1—GENERAL PROVISIONS

Art. 24. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 14, Vernon's Texas Rules of Civil Procedure.

Art. 28a. Legal publications, definitions

The following terms shall, unless the context indicates otherwise, have the following respective meanings:

(1) The term "publication" shall mean any proclamation, notice, citation, advertisement, or other matter required or authorized by law to be printed in a newspaper or newspapers by any institution, board, commission, department, officer, agent, representative, or employee of the State or of any subdivision or department of the State, or of any county, political subdivision, or district of whatever nature within the State, whether to be paid for out of public funds or charged as costs or fees.

(2) The term "newspaper" shall mean any newspaper devoting not less than twenty-five (25) per cent of its total column lineage to the carrying of items of general interest, published not less frequently than once each week, entered as second-class postal matter in the county where published, and having been published regularly and continuously for not less than twelve (12) months prior to the making of any publication mentioned in this Act.

(3) The term "political subdivision" shall include cities, towns, and villages, but this definition shall not be exclusive.

(4) The term "district" shall include school districts of every kind, road districts, drainage districts, irrigation districts, levee improvement districts, conservation and reclamation districts, and improvement districts of every kind, but this definition shall not be exclusive.

(5) The term "shall" whenever used in this Act shall be construed as indicating mandatory provisions in this Act.

(6) The officer, employee, agency, or persons charged with the duty of inserting any publication in a newspaper or newspapers shall select the newspaper or newspapers in which such publication is to be inserted. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 1.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 6 of the amendatory Act of 1941, read as follows: "If any section, subsection, paragraph, sentence, clause, or other

part of this Act be held unconstitutional or invalid by any Court of competent jurisdiction for any cause whatever, it is nevertheless the intention of the Legislature that such sections, subsections, paragraphs, sentences, clauses, or other parts of this Act not so unconstitutional or invalid shall

be enacted and that such unconstitutionality or invalidity of any such section, subsection, paragraph, sentence, clause, or other part of such there be, shall not affect the validity of any other section, subsec-

tion, paragraph, sentence, clause, or other part of this Act."

Section 7 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 29. Legal rate of publication

Wherever any publication, as publication is defined in Section 1 hereof, is authorized or required by any law, general or special, to be inserted in a newspaper, the legal rate which such newspaper shall charge for such publication shall be Two (2) Cents per word for the first insertion of such publication, and One Cent per word for each subsequent insertion, or such newspaper shall be entitled to charge for such publication at a rate equal to but not in excess of the lowest published word or line rate of that newspaper for classified advertising.

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

Without intending to exclude any other publication to which this Act applies, it is specially provided that this Act shall apply to all citations or notices which are required to be published or may be published in delinquent tax suits and to notices of sale of real estate under execution, order of sale, or any other judicial sale provided for in Articles 3808, 4203, 7276, and 7342 of the Revised Civil Statutes of Texas, 1925. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 1.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 6 of such act, set out under article 28a.

Art. 29a. Official publications

After the effective date of this Act, in every case where any law, general or special, requires the giving of any notice, the making of any proclamation or advertisement, or the service of any citation by any institution, board, commission, department, officer, agent, representative, or employee of the State or of any subdivision or department of the State or of any county, political subdivision, or district of whatever nature within the State by publication in a newspaper, the giving of such notice, the making of such proclamation or advertisement, or the service of such citation shall be by publication in a newspaper, as defined in Section 1 of this Act. If any such law or laws specifies the manner of publication of such notice, proclamation, advertisement, or citation in a newspaper, such law or laws shall govern the manner of publication of such notice, proclamation, advertisement, or citation. If the manner of publication of such notice, proclamation, advertisement, or citation is not prescribed by the law requiring such notice to be given, such proclamation or advertisement to be made, or such citation to be served, then publication of such notice, proclamation, advertisement, or citation shall be made in a newspaper subject to the following restrictions and requirements:

(1) When the number of insertions of a publication is not specified by the law or laws requiring or authorizing such publication, such publication shall be inserted in some newspaper for at least one issue of such newspaper.

(2) If the period of time required for the giving of any notice, the making of any proclamation or advertisement, or the service of any citation is specified by the law or laws requiring or authorizing the giving of such notice, the making of such proclamation or advertisement, or the service of such citation, then the provisions of such law or laws shall be complied with as to such period of time in all publications made under the provisions of this Act.

(3) If the period of time referred to in paragraph 2 of this Article is not specified in the law or laws referred to therein, then such publication shall be in some newspaper issued at least one day prior to the happening of the events referred to in such publication.

(4) In every case where any notice, proclamation, or advertisement is required to be given by any district or political subdivision within the State, such notice or proclamation shall be given or made by publication in some newspaper published in such district or political subdivision, if there be such newspaper which will make such publication at a price not in excess of the maximum prescribed by this Act, but if there be no such newspaper, then such publication shall be made in any newspaper published in the county in which said district or political subdivision is situated, or, if there be no newspaper in such county which will make such publication at a price not in excess of the maximum prescribed by this Act, then such notice shall be posted at the courthouse door of said county.

(5) In every case where any notice, proclamation, or advertisement is required to be given or made by any county, such notice, proclamation, or advertisement shall be given or made by publication in some newspaper published in the county, if there be such newspaper which will make such publication at a price not in excess of the maximum prescribed by this Act, but if there be no such newspaper published in the county, then such notice shall be made by posting a copy of same at the courthouse door of said county.

In every case where the service of any citation or notice in any case, controversy, suit, or proceeding in any of the Courts of the State is required to be by publication under the provisions of any general or special law of this State, such publication shall be published as required by the general or special law providing for such notice by publication.

In every case, controversy, proceeding, or suit in any of the Courts of the State where the service of citation or notice is required to be made by publication under any general or special law of this State and in which case, controversy, proceeding, or suit the State or any political subdivision or district thereof is a party and in which case, controversy, proceeding, or suit the cost of publication of such citation or notice is to be charged as fees or costs, the refusal of any newspaper to make publication of such citation or notice without payment of the cost of such publication in advance of publication shall be deemed as unqualified refusal to publish such citation or notice, and the sworn statement of the publisher or the person offering to insert such publication shall be subject to record as proof of such refusal. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 1.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 6 of such act, set out under article 28a.

TITLE 4—AGRICULTURE AND HORTICULTURE

Chap.

12. Rice [New].

CHAPTER FOUR—AGRICULTURAL SEEDS

Art.

93b. Texas Seed Law [New].

Art. 93a. Repealed. Acts 1941, 47th Leg., p. 893, ch. 551, § 12. Eff. 90 days after July 3, 1941, date of adjournment

Art. 93b. Texas Seed Law

Section 1. This Act shall be known as "The Texas Seed Law."

Definitions

Sec. 2. When used in this Act:

(a) The term "person" shall include a partnership, corporation, company, society, vendor, or association.

(b) The term "agricultural seeds" shall include the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds.

(c) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

(d) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this State, and shall include noxious weed seeds.

(e) Hybrid Seed Corn. The term "hybrid seed corn" means the first generation seed of a cross produced by controlling the pollination, and by combining two, three, or four inbred lines, or by combining one inbred line or a single cross with an open-pollinated variety. Hybrid designations shall be treated as variety names.

(f) Noxious weed seeds shall be divided into two classes, "primary noxious weed seeds" and "secondary noxious weed seeds" which are defined in (1) and (2) of this subsection. Provided, that the Commissioner of Agriculture may add to or subtract from the list of seeds included under either definition whenever he finds, after public hearing, that such additions or subtractions are within the respective definitions.

(1) "Primary noxious weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this State by ordinary good cultural practice.

"Primary noxious weed seeds" in this State are the seeds of Johnson Grass (*Andropogon halepensis*), Bindweed or Morning Glory (*Convolvulus* spp.), Blue Weed (*Helianthus ciliaris*), and Dodder (*Cuscuta*, various species).

(2) "Secondary noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this State, but can be controlled by good cultural practice.

"Secondary noxious weed seeds" in this State are the seeds of Russian Thistle (*Salsola kali*), Wire Grass (*Paspalum distichum*), Bermuda Grass (*Cynodon Dactylon*), Wild Oat (*Avena fatua*), Chess or Cheat (*Bromus secalinus*), Buckhorn Plantain (*Plantago lanceolata*), Purple Nightshade (*Solanum elaeagnifolium*), Darnel (*Lolium temulentum*), Wild Mustard (*Brassica sinapistrum*), Curly Dock (*Rumex crispus*).

(g) The term "labeling" includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(h) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

Label Requirements

Sec. 3. Each container of agricultural or vegetable seed which is sold, offered for sale, or exposed for sale, within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For Agricultural Seeds.

(1) Commonly accepted name of (a) kind, or (b) kind and variety, or (c) kind and type, of each agricultural seed component in excess of five (5) per cent of the whole, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(2) Lot number or other lot identification.

(3) Origin, if known, of alfalfa, red clover, and field corn. If the origin is unknown, that fact shall be stated.

(4) Percentage by weight of all weed seeds.

(5) The name and approximate number of each kind of secondary noxious weed seed, per ounce in groups (A) and (B) and per pound in groups (C) and (D), when present singly or collectively in excess of:

(A) One seed or bulblet in each 5 grams of *Agrostis* spp., *Poa* spp., Rhodes Grass, Bermuda Grass, Dallis Grass, Alsike and White Clover, Reed Canary Grass, and other agricultural seeds of similar size and weight, or mixtures within this group;

(B) One seed or bulblet in each 10 grams of rye grass, meadow fescue, foxtail millet, alfalfa, red clover, sweet clovers, lespedezas, smooth brome, crimson clover, *Brassica* spp., flax, *Agropyron* spp., and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with (A);

(C) One seed or bulblet in each 25 grams of proso, Sudan grass, and other agricultural seeds of similar size and weight, or mixtures not specified in (A), (B), or (D);

(D) One seed or bulblet in each 100 grams of wheat, oats, rye, barley, buckwheat, sorghums, vetches, and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group. All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(6) Percentage by weight of agricultural seeds other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed (a) percentage of germination, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this State.

(b) For Vegetable Seeds.

(1) Name of kind and variety of seed.

(2) For seeds which germinate less than the standard last established by the Commissioner of Agriculture under this Act.

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine such percentages;

(D) The words "below standard" in not less than eight-point type; and

(3) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within the State.

Prohibitions

Sec. 4. (a) It shall be unlawful for any person to sell, offer for sale, or expose for sale any agricultural or vegetable seed within this State:

(1) Unless the test to determine the percentage of germination required by Section 2 shall have been completed within a twelve-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.

(2) Not labeled in accordance with the provisions of this Act, or having a false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Any agricultural seeds containing primary noxious-weed seeds subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(b) It shall be unlawful for any person within this State:

(1) To detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder, or to alter or substitute seed in a manner that may defeat the purposes of this Act.

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this Act.

(4) To fail to comply with a "stop-sale" order.

Exemptions

Sec. 5. (a) The provisions of Sections 2 and 3 do not apply:

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing. Provided, that any labeling or other representation which may be made with respect to the unclean seed shall be subject to this Act.

(b) No person shall be subject to the penalties of this Act, for having sold, offered, or exposed for sale in this State any agricultural or vegetable seeds, which were incorrectly labeled or represented as to kind, variety, type, or origin which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin, if required.

(c) Providing that nothing in this Act shall be construed as preventing one farmer from selling to another farmer such seed grown

on his own farm, as covered by the provisions of this Act without having said seed tested and labeled as provided for herein, when such seed is not advertised in the public press outside of the vendor's home county, and is not shipped by common carrier.

Duties and Authority of the Commissioner of Agriculture

Sec. 6. (a) The duty of enforcing this Act and carrying out its provisions and requirements shall be vested in the Commissioner of Agriculture. It shall be the duty of such officer, who may act through his authorized agents:

(1) To sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold, offered, or exposed for sale within this State for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with the provisions of this Act, and to notify promptly the person who transported, sold, offered, or exposed the seed for sale of any violation.

(2) To prescribe and, after public hearing following due public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, tests and examination of agricultural and vegetable seed, and the tolerances to be followed in the administration of this Act, which shall be in general accord with officially prescribed practice in interstate commerce, to provide definition of terms, and such other rules and regulations as may be necessary to secure the efficient enforcement of this Act.

(b) Further, for the purpose of carrying out the provisions of this Act, the Commissioner of Agriculture individually or through his authorized agents is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to the Act and the rules and regulations thereunder.

(2) To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the Commissioner of Agriculture has reason to believe is in violation of any of the provisions of this Act which shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. Provided, that in respect to seeds which have been denied sale as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from such order to a Court of competent jurisdiction where the seeds are found, praying for a judgment as to the justification of said order, and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the Court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this Act.

(3) To establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions.

(4) To make or provide for making purity and germination tests of seeds for farmers and dealers on request; to prescribe rules and regulations governing such testing; and may fix and collect charges for the tests made.

(5) To cooperate with the United States Department of Agriculture in seed law enforcement.

Inspection Tax

Sec. 7. The vendor, before any agricultural seed or mixture of such seed are offered or exposed for sale, shall pay to the Commissioner of Agriculture, an inspection tax of not to exceed One Cent for each hundred pounds or fraction thereof sold, or offered for sale, in this State and shall affix to each lot shipped in bulk, and to each bag, barrel, or other package of such seed, a tag to be furnished by said Commissioner, stating that all charges specified in this Act have been paid. The Commissioner is hereby empowered to prescribe the form of such tags.

Seizure

Sec. 8. Any lot of agricultural or vegetable seed not in compliance with the provisions of this Act shall be subject to seizure on complaint of the Commissioner of Agriculture to a Court of competent jurisdiction in the area in which the seed is located. In the event that the Court finds the seed to be in such violation of the Act and orders the condemnation of said seed, it shall be denatured, processed, destroyed, re-labeled, or otherwise disposed of in compliance with the laws of this State. Provided, that in no instance shall such disposition of said seed be ordered by the Court without first having given the claimant an opportunity to apply to the Court for the release of said seed or permission to process or re-label it to bring it into compliance with the Act.

Violations and Prosecutions

Sec. 9. Every violation of the provisions of this Act shall be deemed a misdemeanor punishable by a fine not exceeding Fifty Dollars (\$50) for the first offense and not exceeding Two Hundred Dollars (\$200) for each subsequent similar offense.

When the Commissioner of Agriculture shall find that any person has violated any of the provisions of this Act he, or his duly authorized agent or agents, may institute proceedings in the Court of competent jurisdiction in the area in which the violation occurred to have such person convicted therefor; or the Commissioner of Agriculture may file with the County or District Attorney with the view of prosecution such evidence as may be deemed necessary. Provided, however, that no prosecution under this Act shall be instituted without first having given the defendant an opportunity to appear before the Commissioner of Agriculture, or his duly authorized agent, to introduce evidence either in person or by agent or attorney at a private hearing. If, after such hearing, or without such hearing in case the defendant or his agent or attorney fails or refuses to appear, the Commissioner of Agriculture is of the opinion that the evidence warrants prosecution he shall proceed as herein provided.

It shall be the duty of the County or District Attorney or the Attorney General of Texas, as the case may be, to institute proceedings at once against the person charged with such violation if, in his judgment, the information submitted warrants such action.

After judgment by the Court in any case arising under this Act the Commissioner of Agriculture shall publish any information pertinent to the issuance of the judgment by the Court in such media as he may designate from time to time.

Miscellaneous

Sec. 10. All money received by the Commissioner of Agriculture through the administration of this Act shall be paid by him to the State Treasurer who shall deposit said money to the account of the Texas Seed Act; said account shall be a continuing fund and shall be used in the administration of the Texas Seed Act.

Partial invalidity

Sec. 11. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Repeals

Sec. 12. That Chapter 304, General and Special Laws, Regular Session of the Forty-first Legislature, and as amended by the Forty-second Legislature, in House Bill No. 375,¹ be and the same is hereby repealed. Acts 1941, 47th Leg., p. 893, ch. 551.

¹ Article 93a and Vernon's Rev.Pen.Code, article 1708a.

Approved June 30, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 13 of the Act of 1941 repealed all conflicting acts and parts of acts.

Section 14 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to regulate the sale and labeling of agricultural and vegetable seeds in the State of Texas; and defining the manner of labeling of same by seed dealers who may expose and/or offer such seed for sale; providing for the testing of such seeds for germination and other purposes; defining person, agricultural seeds, vegetable seeds, hybrid seed corn, weed seeds, noxious weed seeds and secondary noxious weed seeds and advertisement; setting up labeling requirements for seeds, the sale of which is regulated by this Act and defining the physical testing methods of testing such seeds; setting up certain prohibitions in the sale, or offering for sale, of seeds, the sale of which are regulated by this Act; providing farmer exemption and defining certain other exemptions; prescribing the duties of the

Commissioner of Agriculture, and authorizing the Commissioner to promulgate rules and regulations in conformity with this Act; providing for the inspection and sampling of seed transported, sold, or offered for sale within the State; providing for the holding of public hearings; providing for the right of ingress and egress by the Commissioner, his agents and/or employees, giving the Commissioner the authority to issue and enforce stop-sale orders; to make provisions and maintain seed testing facilities; to fix and collect charges for tests and for such labels as may be sold to dealers and others; to cooperate with the United States Department of Agriculture; providing for an inspection tax, and the affixing of tags or labels to seed containers; regulating the sale of seeds by the drivers of trucks and other vehicles; providing for seizure of seeds when not properly labeled or tagged, or sold or offered for sale in violation of this Act; defining violators and providing penalties; providing for the use and disposition of funds; providing for the repeal of certain laws; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 893, ch. 551.

CHAPTER SIX—FRUITS AND VEGETABLES

Art. 117a. Inspection for protection of potato industry

Inspectors; appointment; compensation; duties; "Commercial Quantities", defined

Sec. 3. The provisions of this Act with regard to grading, classifying, and inspecting potatoes offered for shipment in commercial quantities, shall be enforced by Inspectors appointed by the Commissioner of Agriculture. "Commercial Quantities" as the term is used herein shall be construed to mean any lot or shipment of potatoes of a gross weight in excess of five hundred (500) pounds, moving in intrastate and/or interstate channels of commerce by rail, truck, or other manner or medium of transportation. Said Inspectors shall be paid by the Commissioners Court of the county within which the duties of such Inspectors shall be performed, either from the General Fund of the county, or from the special Potato Inspection Fund herein provided, at the elec-

tion of the Commissioners Court of said county. The Commissioner of Agriculture shall appoint such Inspectors only when requested to do so by formal resolution of the Commissioners Court of a county desiring such inspection, which resolution shall state the number of such Inspectors desired for such county, and the compensation to be paid to each. Upon receipt by the Commissioner of Agriculture of a duly certified copy of such resolution, he shall thereupon appoint Inspectors in the number desired by the county, and certify their appointment to the Commissioners Court of said county. Such certificate of appointment by the Commissioner of Agriculture shall state the names of the Inspectors so appointed, and the compensation to be paid to them, which shall not exceed the compensation fixed by resolution of the Court requesting such appointment, and after filing of such certificate with the Commissioners Court of any county, that county shall be liable for the payment of the compensation of such Inspectors as provided in the resolution of said Court, and the certificate of the Commissioner of Agriculture, until the Commissioners Court of said county shall, by certified copy of resolution to that effect, duly filed with the Commissioner of Agriculture, advise him that it desires to discontinue such inspection service, or to decrease the number of Inspectors or the compensation paid to them, in which case the Commissioner of Agriculture shall conform to such resolution of the Commissioners Court by discontinuing such inspection service, or by reducing the number of Inspectors appointed by the Commissioner of Agriculture for such county, as such resolution may provide. As amended Acts 1941, 47th Leg., p. 856, ch. 532, § 1.

Approved and effective June 18, 1941. the Act should take effect from and after
 Section 2 of the amendatory Act of 1941 its passage.
 declared an emergency and provided that

CHAPTER SEVEN—NURSERY STOCK

Art. 120. 4459 Diseases and pests

No person in this State shall knowingly or wilfully keep any peach, almond, apricot, nectarine, or other trees affected with the contagious diseases known as "yellows," "peach mosaic," or "phony peach," nor keep for sale any apple, peach, plum, or other tree affected with nematode galls, crown galls, fire blight, or root rot. No person shall knowingly or wilfully keep any plum, cherry, or other trees affected with the contagious disease or fungus known as black knot or plum canker; nor any tree, shrub, or plant infested with or by the San Jose scale or other insect pest dangerously injurious to or destructive of trees, shrubs, or other plants; nor any grapefruit, orange, or lemon trees, citrus stocks, cape jasmines, or other trees, plants, or shrubs infested with "white fly" Florida scale, cottony cushion scale, wooly aphid, or other injurious insect pests, or citrus canker, or other contagious diseases of citrus fruits; nor subtropical plants, shrubs, evergreens, or ornamentals; nor any china, forest or other trees, shrubs, or plants infested with injurious insect pests or contagious diseases. As amended Acts 1941, 47th Leg., p. 487, ch. 305, § 1.

Approved May 20, 1941.
 Effective 90 days after July 3, 1941, date of adjournment.

Section 5 of the amendatory Act of 1941, read as follows: "If any section, subsection, clause, or phrase of this Act is, for any reason, held to be unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby de-

clares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional."

Section 6 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

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

Art. 124. Appeal; enforcement of order; penalty for violations of act or regulations, etc.

Any person aggrieved by any order or notice of the Commissioner shall have the right of appeal to any Court of competent jurisdiction, such appeal shall be taken within ten (10) days from and after receipt of such notice or order, and not thereafter. Such appeal shall be heard by said Court in term time or vacation. If the decision on such appeal shall be against such person, or if such person shall fail or neglect to perfect his appeal in the manner in this Section provided, the order or notice of the Commissioner shall be final and the Commissioner, his agents, or employees, shall summarily execute such notice or order and place such premises in compliance therewith. The sheriff or any constable of any Court within this State shall, on request of the Commissioner, his agent, or employee go upon any premises within this State for the purpose of assisting in the enforcement of such order or notice and placing such premises in compliance therewith. Any person who shall wilfully or negligently violate any of the terms and provisions of this Act, or wilfully or negligently fail or refuse to comply with any rule, regulation, order, or notice of the Commissioner, issued by said Commissioner pursuant to the duties upon him herein imposed, or the authority to him herein granted, shall, upon conviction, be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), and each day upon which any person shall maintain any premises within this State in a condition of noncompliance with the provisions of this Act after due notice has been given, as herein provided, shall be deemed a separate offense. As amended Acts 1941, 47th Leg., p. 487, ch. 305, § 2.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 5 of such act, set out under article 120.

Art. 126. Examination and certificate

To ascertain whether nursery stock is infected with diseases or pests, the Commissioner shall cause to be made at least once each year an examination of each nursery or other place where nursery stock is exposed for sale. If such nursery stock is apparently free in all respects from infection or infestation, the Commissioner, upon receipt of inspection fee provided by this Act, shall issue to the owner or person in control of such stock, a certificate reciting that the stock examined was at the time of such examination apparently free from any such disease or pest. No such certificate shall be negotiable or transferrable, and, if sold or transferred, shall be void. Any person offering for sale any nursery stock without a certificate of inspection, as herein provided, shall be deemed to be in violation of this Act. As amended Acts 1941, 47th Leg., p. 487, ch. 305, § 3.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 5 of such act, set out under article 120.

Art. 128. Nursery stock shipped into State

No person, partnership, or corporation outside this State shall be permitted to ship nursery stock into this State without having first filed with the Commissioner of Agriculture a certified copy of his, or their, certificate of inspection, issued by the proper authorities in the State from which the shipment originates. Such certificate shall show that the stock to be shipped has been examined by the proper officers of in-

spection in such State, and that it is apparently free from all dangerous insect pests or contagious diseases, and when fumigation or other special treatment is required by the Commissioner of Agriculture that the stock has been properly fumigated or treated. Upon receipt of such certificate, and provided that such certificate shall be acceptable to the Commissioner and approved by him, the Commissioner shall issue to such applicant a Texas importation certificate which shall permit the applicant to ship the nursery stock described into the State of Texas. For the issuance of any importation certificate the Commissioner shall charge a fee commensurate with the services rendered, which said fee shall in no event exceed Five Dollars (\$5). Each box, bale, or package of nursery stock from outside the State shall bear a tag on which is printed a copy of the certificate of this State, and also a copy of the certificate of the State in which it originates. As amended Acts 1941, 47th Leg., p. 487, ch. 305, § 4.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 5 of such act, set out under article 120.

CHAPTER EIGHT—EXPERIMENT STATIONS

1. STATE EXPERIMENT STATIONS

Art.

149H. Experimental station in South-Central Texas [New].

149i. Dairy experiment station in First Senatorial District [New].

2. COUNTY FARMS AND STATIONS

Art.

163a. Election on issuance of bonds or warrants for agricultural experiment station [New].

1. STATE EXPERIMENT STATIONS

Article 149H. Experimental Station in South-Central Texas

Section 1. That the Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to establish and maintain an Agricultural Experiment Station in the South-Central Texas region for the purpose of making scientific investigations and experiments in the study of poultry problems applicable to that region and the State of Texas, with particular emphasis on the study of scientific production of broilers and fryers, including the study of economics of production, feed utilization, marketing, and other related problems in the scientific production of poultry of this type. This Station shall be established and located in Gonzales County, Texas.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas, is hereby authorized and empowered to secure a suitable site for the location of said Agricultural Experiment Station in Gonzales County, Texas, containing such amount of land not less than fifteen (15) acres, well adapted to the purposes aforesaid. The said Board of Directors is authorized to accept donations of land, water, equipment, money or anything of value for the establishment and maintenance of said Station and to use donations and appropriations which might hereafter be made for the erection of the necessary buildings and equipment and the purchase of the necessary poultry stock, if and after the lands necessary for said Station have been purchased or donated.

Sec. 3. The Agricultural Experiment Station hereby provided for shall be under the general direction of the Agricultural and Mechanical

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

College of Texas, and shall be operated and conducted by the Director of the Experiment Station as all other experiments are now conducted. Added Acts 1941, 47th Leg., p. 126, ch. 99, § 1.

Approved April 4, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 149i. Dairy experiment station in First Senatorial District

Section 1. That the Board of Directors of the Agricultural and Mechanical College of Texas are hereby authorized and empowered to establish and maintain a Dairy Experiment Station in the First Senatorial District of Texas for the purpose of making scientific investigations and experiments in the study of the grazing, feeding, pasturage, land maintenance; the study of economics in the production and utilization of feeds, and other problems of dairying applicable to northeast Texas.

Sec. 2. The Board of Directors of the Agricultural and Mechanical College of Texas are hereby authorized and empowered to secure a suitable site for the location of said Dairy Experiment Station to be located in the First Senatorial District. Said Board of Directors are authorized to accept donations of land, water rights, and money for the establishment and maintenance of said Station and to use any appropriations which are hereafter made for the erection of necessary buildings, and for the equipment and maintenance of said Station.

Sec. 3. The Dairy Experiment Station herein provided for shall be under the direction and supervision of the Board of Directors of the Agricultural and Mechanical College of Texas, and shall be operated and conducted by the Directors of Experiment Station, as all other State Experiment Stations are now conducted. Acts 1941, 47th Leg., p. 1392, ch. 630.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to establish and maintain an Agricultural Experiment Station for the development of dairy, poultry, and truck

crops in the First Senatorial District of Texas, authorizing the Board of Directors of the Agricultural and Mechanical College of Texas to select a suitable location for said station and empowering said Board of Directors to establish and maintain the same; to accept donations of land, water and money for establishing said station and for the operation of same; and declaring an emergency. Acts 1941, 47th Leg., p. 1392, ch. 630.

2. COUNTY FARMS AND STATIONS

Art. 163a. Election on issuance of bonds or warrants for agricultural experiment station

Sec. 1. The Commissioners Court of any county in this State is hereby authorized to call an election for the purpose of issuing bonds or warrants for the purpose of acquiring tracts of land and constructing buildings and improvements thereon for an agricultural experiment station, and is hereby authorized to levy and collect a tax sufficient to pay the annual interest and to provide a sinking fund for the payment of the principal at maturity.

Sec. 2. The election authorized herein shall be held under the provisions set forth in Title 22, Chapters 1 and 2, Revised Civil Statutes of Texas, 1925.

Sec. 3. The Commissioners Court of any county in this State which may acquire and construct an agricultural experiment station as au-

thorized by this Act is further authorized to lease same to the State of Texas or to any agency of the Federal Government under terms to be agreed upon by the Commissioners Court and the lessor. Acts 1941, 47th Leg., p. 703, ch. 438.

Approved and effective May 27, 1941.

Section 4 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Court of any county in this State to call an election for the purpose of issuing bonds or warrants for the purpose of acquiring tracts of land and constructing buildings and improvements thereon for an agricultural experiment station; authorizing said

Commissioners Court to levy and collect a tax sufficient to pay the annual interest and to provide a sinking fund for the payment of the principal at maturity; providing that the election shall be held under provisions of Title 22, Chapters 1 and 2, Revised Civil Statutes of Texas of 1925; authorizing the Commissioners Court to lease any experiment station acquired under authority of this Act to the State of Texas or to any agency of the Federal Government; and declaring an emergency. Acts 1941, 47th Leg., p. 703, ch. 438.

CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION

Art.

165a—6. Rental of county machinery to landowners in counties of 320,000 to 360,000 [New].

Art.

165a—7. Rent of county machinery to landowners in counties of 60,000 to 80,000 and counties of 22,000 to 23,000 [New].

Art. 165a—1. Repealed. Acts 1941, 47th Leg., p. 491, ch. 308, § 5(A). Eff. May 20, 1941.

This article was, previously repealed by section 17 of Acts 1939, 46th Leg., p. 7, but such repealing section was omitted from the Act of 1939, as amended by Acts 1941,

47th Leg., p. 491, ch. 308. See article 165a—4 and notes thereunder.

State Soil Conservation Law, see article 165a—4.

Art. 165a—2. Wind Erosion Conservation Districts; creation authorized

Acts 1941, 47th Leg., p. 491, ch. 308, § 5(c), set out in note under article 165a—4, provided, that article 165a—2, should not be in anywise affected, impaired, nor impinged by the Act of 1941, amending article 165a—4. A similar provision was contained in section 17 of Acts 1939, 46th Leg., p. 7,

which was omitted in the amendment of the Act of 1939 as a whole by the Act of 1941. See article 165a—4 and notes thereunder.

Soil conservation law not to affect this act, see article 165a—4, note.

Art. 165a—4. State Soil Conservation Law—Short title

This Act may be known and cited as the "State Soil Conservation Law."

Legislative Determinations, and Declaration of Policy

Sec. 2. It is hereby declared, as a matter of Legislative Determination:

(a) The Condition. That the farm and grazing lands of the State of Texas are among the basic assets of the State and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this State by wind and water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an ac-

celerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any occupier of land to conserve the soil and control erosion upon such land causes a washing and blowing of soil and water from such lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

(b) The Consequences. That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydro-electric power, municipal water supply, irrigation developments, farming, and grazing.

(c) The Appropriate Corrective Methods. That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion may be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; reforestation and reforestation; rotation of crops, soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops, retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(d) Declaration of Policy. It is hereby declared to be the policy of the Legislature to provide for the conservation of soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this State, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Constitution of Texas. It is further declared as a matter of Legislative intent and determination of policy that the agencies created, powers conferred and the activities contemplated in this Act for the conservation of soil and water resources and for the reduction of public damage resulting from failure to conserve

such natural resources, shall be supplementary and complementary to the work of various river and other authorities now established in the State and to other State officers, agencies, and districts engaged in closely related projects, and shall not be duplicative thereof nor conflicting therewith.

Definitions

Sec. 3. Wherever used or referred to in this Act, unless a different meaning clearly appears from the context:

(1) "District" or "Soil Conservation District" means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "State District" means one of the five (5) districts established as provided in Section 4, Subsection A of this Act.

(3) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this Act.

(4) "Board" or "State Soil Conservation Board" means the agency created in Section 4 of this Act.

(5) "County Soil Conservation Committee" means the committee selected in each county of the State as provided in Section 4, Subsection B of this Act.

(6) "Petition" means a petition filed under the provisions of Subsection A of Section 5 of this Act for the creation of a district.

(7) "State" means the State of Texas.

(8) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State.

(9) "United States" or "Agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(10) "Government" or "Governmental" includes the Government of this State, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise of either of them.

(11) "Landowner" or "Owner of land" includes any natural person who holds title to farm or ranch lands lying within a soil conservation district organized under the provisions of this Act, who has attained the age of twenty-one years, and is a resident of a county, all or any part of which is included in such Soil Conservation District.

(12) "Board of Adjustment" means the agency appointed in accordance with the provisions of Section 10 of this Act.

(13) "Due Notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area, or notice posted for at least two weeks at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs, generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

(14) "Land Occupier" or "Occupiers of Land" includes any person, firm, or corporation who shall hold title to or be in possession of any lands lying within a district organized under the provisions of this Act, whether as owner, lessee, renter, tenant or otherwise.

State Soil Conservation Board

Sec. 4. A. There is hereby established to serve as an agency of the State and to perform the functions conferred on it in this Act, the State Soil Conservation Board. The Board will consist of five (5) members. The following shall serve in an advisory capacity to the Board: The President of The Agricultural and Mechanical College of Texas, the President of Texas Technological College, the Director of Vocational Agriculture of Texas, the State Commissioner of Agriculture and the State Coordinator of the Soil Conservation Service of the United States Department of Agriculture. The five (5) elective members of the Board shall be selected as follows: The State of Texas is hereby divided into five (5) State Districts for the purpose of selecting five (5) members of the State Soil Conservation Board. These five (5) State Districts shall be composed as follows:

State District No. 1, comprising fifty-one (51) counties: Dallam, Dawson, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Gaines, Borden, Scurry, Fisher, Foard.

State District No. 2, comprising fifty-one (51) counties: Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Runnels, Coke, Sterling, Glasscock, Midland, Ector, Winkler, Loving, Reeves, Culberson, Hudspeth, El Paso, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, San Saba, Mason, Llano, Blanco, Gillespie, Crockett, Schleicher, Menard, Sutton, Kimble, Val Verde, Edwards, Real, Kerr, Kendall, Bandera, Uvalde, Medina, Kinney, Maverick.

State District No. 3, comprising fifty (50) counties: Burtson, Lee, Bastrop, Travis, Hays, Comal, Guadalupe, Caldwell, Fayette, Washington, Austin, Colorado, Lavaca, Gonzales, Wilson, Bexar, DeWitt, Jackson, Wharton, Fort Bend, Brazoria, Matagorda, Calhoun, Refugio, Bee, Karnes, Live Oak, Atascosa, McMullen, La Salle, Frio, Duval, Dimmit, Webb, Zapata, Jim Hogg, Starr, Brooks, Hidalgo, Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Jim Wells, Zavala, Goliad, Victoria.

State District No. 4, comprising fifty-one (51) counties: Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Camp, Upshur, Wood, Rains, Van Zandt, Smith, Gregg, Harrison, Henderson, Cherokee, Rusk, Panola, Shelby, Nacogdoches, Anderson, Freestone, Leon, Robertson, Brazos, Madison, Grimes, Waller, Houston, Walker, Trinity, Angelina, San Augustine, Sabine, Newton, Jasper, Tyler, Polk, San Jacinto, Montgomery, Harris, Liberty, Hardin, Orange, Jefferson, Chambers, Galveston.

State District No. 5, comprising fifty-one (51) counties: Wilbarger, Wichita, Clay, Montague, Cooke, Grayson, Fannin, Hunt, Collin, Denton, Wise, Jack, Archer, Baylor, Knox, Haskell, Stephens, Throckmorton, Young, Jones, Shackelford, Palo Pinto, Rockwall, Kaufman, Ellis, Parker, Tarrant, Dallas, Johnson, Hood, Somervell, Erath, Eastland, Callahan, Coleman, Brown, Comanche, Mills, Hamilton, Bosque, Hill, Navarro, Limestone, McLennan, Falls, Milam, Bell, Williamson, Burnet, Lampasas, Coryell.

B. It shall be the duty of the State Soil Conservation Board to notify the County Judge of all counties in a State District wherein

a District Conservation Convention is to be held, as hereinafter provided, at least sixty (60) days prior to the date of such District Convention. The County Judge, upon being notified by the State Board of the date on which the District Convention is to be held, shall, within twenty (20) days appoint a County Soil Conservation Committee of four (4) members. Each committee member so appointed shall be a landowner, and shall be actively engaged in the business of farming or animal husbandry. One member of the County Soil Conservation Committee shall be appointed from each Commissioner's Precinct within the county.

The County Judge shall, within five (5) days after such appointment, officially notify the persons so selected that they have been appointed as members of such Committee, and the County Judge shall, within five (5) days thereafter, certify the names and addresses of such persons to the State Soil Conservation Board.

The County Soil Conservation Committee shall select one of its members as chairman, who shall have authority to cast an additional vote in case of a tie and shall be charged with the usual and customary duties of a presiding officer. A majority of the members shall constitute a quorum and the concurrence of a majority of such quorum in any matter within their jurisdiction shall be required for final determination.

Members of a County Soil Conservation Committee shall receive no compensation for their services except the delegate to the District Conservation Convention who shall receive Five (5) Cents per mile for travel each way between the County Seat of his county and the place where the District Convention is held, and Four Dollars (\$4) per day, not to exceed two (2) days, to be paid by the State Soil Conservation Board.

C. The County Soil Conservation Committee in each county shall elect one of its members as a delegate to attend the State District Conservation Convention. The name and address of the delegate to the District Convention shall be certified to the State Soil Conservation Board by the Chairman of the County Soil Conservation Committee not less than twenty (20) days prior to the date of the convention. Each State District Conservation Convention shall elect from among the qualified delegates present, by a majority vote, a member of the State Soil Conservation Board. The Chairman of the District Convention shall within five (5) days, certify to the State Soil Conservation Board, and the Secretary of State the name and address of the person elected. A majority of all qualified delegates elected to the State District Convention shall constitute a quorum. Each member of the State Soil Conservation Board shall be a qualified delegate to the State District Convention which elects his successor.

Board members for Districts 2 and 4 elected in 1941 under the provisions of House Bill No. 20, Acts, Forty-sixth Legislature, Regular Session¹ shall serve for the term for which they were elected, and until their successors are elected and have qualified. On the first Tuesday in May, 1943, at a place within the district to be designated by the State Soil Conservation Board, State District 2 shall elect a board member as hereinabove provided, to serve on the State Soil Conservation Board for a period of five (5) years, and State District 4 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of four (4) years. Thereafter, board members elected from State Districts 2 and 4 shall be elected for a period of five (5) years or until their successors are elected and have qualified.

Board members for districts 1, 3, and 5, elected under the provisions of House Bill No. 20, Acts, Forty-sixth Legislature, Regular Ses-

sion,¹ shall hold their offices for the terms for which they were elected, and until their successors are elected and have qualified. On the first Tuesday in May, 1942, at a place within the district to be designated by the State Soil Conservation Board, State District 1 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of two (2) years, and State District 3 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of three (3) years, and State District 5 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of four (4) years. Thereafter, board members elected from State Districts 1, 3, and 5 shall be elected for a period of five (5) years or until their successors are elected and have qualified.

Terms of office of all State Board Members shall begin on the day following their election.

D. Each member of the State Soil Conservation Board shall take the State Constitutional Oath of Office, and said State Soil Conservation Board shall designate one of its elective members to serve as chairman.

Vacancies upon such Board shall be filled for an unexpired term or for a full term, by the same manner in which the retiring members were respectively elected. Elective members of the Board may receive compensation for their services on the Board, not to exceed the sum of Ten Dollars (\$10) per diem for each day of actual service rendered, but each member shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties as a member of the Board.

E. A majority of the elective members of the State Soil Conservation Board shall constitute a quorum and the concurrence of a majority of the elective members in any matter within their duties shall be required for its determination. The State Board shall keep a complete and accurate record of all its official actions, hold such public hearings at such times and places within the State as may be determined by the Board, and shall promulgate such rules and regulations as may be necessary for the performance of the functions of said Board under the provisions of this Act. The Board shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property, which bonds shall be executed by some solvent company authorized to transact a surety business in this State.

F. The State Soil Conservation Board may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation, according to the terms and amounts as specified in the general appropriation bills. The Board may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its Chairman, to one or more of its members, or to one or more agents, or employees, such powers and duties as it may deem proper. It shall have authority to locate its office at a point to be selected by the Board.

G. In addition to the duties and powers hereinafter conferred upon the State Soil Conservation Board, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of Soil Conservation Districts, organized as provided hereinafter, in the carrying out of any of the powers and programs.

(2) To coordinate the programs of the several Soil Conservation Districts organized hereunder so far as this may be done by advice and consultation.

(3) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts.

(4) To disseminate information throughout the State concerning the activities and programs of the Soil Conservation Districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

H. All moneys, funds, and securities coming into the hands of the State Soil Conservation Board shall be deposited in the State Treasury and placed in the State Treasury to the credit of a special fund to be known as the "State Soil Conservation Fund"; and all such funds, moneys, and securities hereafter deposited or credited to such fund are hereby appropriated to the use and benefit of the State Soil Conservation Board and may be, by said Board, used in the administration of and in compliance with this Act. Such funds when so placed in the State Treasury shall be under the same care and control by the State Treasury as any money belonging to the State. The Board shall provide and furnish a biennial audit by the State Auditor and Efficiency Expert and a report to the Governor of the State.

The Board may, by resolution, authorize the Chairman of the Board or the administrative officer to approve all claims and accounts that are payable by the Board. And any claim presented to the Comptroller of Public Accounts carrying such approval will be sufficient authority for the Comptroller to issue his warrant against any appropriation made for the use of the Board, and shall also be sufficient authority for the State Treasury to honor the payment of such warrant.

Creation of Soil Conservation Districts

Sec. 5. A. Any fifty (50) or a majority of the landowners within the limits of that territory proposed to be organized into a district may file a petition with the State Soil Conservation Board asking that a Soil Conservation District be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district.

(2) That there is need, in the interest of the public health, safety, and welfare, for a Soil Conservation District to function in the territory described in the petition.

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate.

(4) A request that the State Soil Conservation Board duly define the boundaries of such district; that an election be held within the territory so defined on the question of the creation of a Soil Conservation District in such territory; and that the Board determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Board may consolidate all or any such petitions.

B. Within thirty (30) days after such a petition has been filed with the State Soil Conservation Board, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare,

of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this Act, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the Board shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a Soil Conservation District to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the Board shall give due weight and consideration to the topography of the area considered and of the state, the composition of the soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other Soil Conservation Districts already organized or proposed for organization under the provisions of this Act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in Section 2 of this Act. If the Board shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a Soil Conservation District to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the Board has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon Soil Conservation Districts in this Act is administratively practicable and feasible. To assist the Board in the determination of such administrative practicability and feasibility, it shall be the duty of the Board, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold an election within the proposed district upon the proposition of the creation of the district, due notice of such election shall be given, which notice shall set forth the boundaries of the proposed district. The question shall be submitted by ballots upon which the words, "For creation of a Soil Conservation District of the lands below described in general terms and lying in the county (ies) of _____ and _____," and, "Against creation of a Soil Conservation District of the lands below described in general terms

and lying in the county (ies) of _____ and _____," shall appear. All owners of land within the boundaries of the territory as determined by the State Soil Conservation Board shall be eligible to vote in such election. When a part of a County is included in a district and the voting box of a landowner within the County is not included within the said district, the landowner within the county shall be entitled to vote at the voting box in which his land is located within the district. All elections for creation of districts shall be held in conformity with the general laws of the State except as herein otherwise provided.

D. The Board shall pay all expenses for the issuance of notices of public hearings and shall supervise the conduct of such hearings. It shall issue appropriate regulations governing the conduct of public hearings and elections, and providing for the registration prior to the date of the election of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such elections. No informalities in the conduct of such elections or any other elections held under this Act or in any manner relating thereto, shall invalidate said election or the result thereof, if notice thereof shall have been given substantially as herein provided, and said election shall have been fairly conducted.

E. The Board shall announce the result of such election and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the Board shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the Board shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the Board shall give due regard to and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of landowners eligible to vote in such election who shall have voted, the proportion of the votes cast in such election in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determinations, having due regard to the legislative determinations set forth in Section 2 of this Act, provided, however, that the Board shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least two-thirds of the votes cast in the election upon the proposition of creating the district shall have been cast in favor of the creation of such district.

F. If the Board shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall divide the district into five (5) subdivisions of approximately equal area, in so far as this may be practicable. The Board shall appoint two (2) supervisors, one each from subdivisions 2 and 4 within the district, to act until at a regular election in subdivisions 2 and 4 their successors are elected and have qualified. Such appointed supervisors, together with the three (3) supervisors elected in accordance with the provisions of Section 6 of this Act, shall be the governing board of the district. One member of the District Board of Supervisors shall be selected from each of the five subdivisions composing the district. The State Soil Conservation Board, in cooperation with landowners, may change the boundaries of the subdivisions from

time to time as may be necessary or desirable because of additions of territory to the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The two (2) appointed supervisors shall present to the Secretary of State an application signed by them, which shall set forth and such application need contain no detail other than the mere recitals: (1) That a petition for the creation of the district was filed with the State Soil Conservation Board pursuant to the provisions of this Act, and that the proceedings specified in this Act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body corporate and politic under this Act; and that the Board has appointed them as supervisors; (2) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) The term of office of each of the supervisors; (4) The name which is proposed for the district; and (5) The location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by laws of this State to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State Soil Conservation Board, which shall certify (and such statement need contain no detail other than mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; and the Board did duly determine that there is need, in the interest of public health, safety, and welfare, for a Soil Conservation District to function in the proposed territory and did define the boundaries thereof; that notice was given and an election held on the question of the creation of such district, and that the result of such election showed a two-thirds majority of the votes cast in such election to be in favor of the creation of the district; that thereafter the Board did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the Board.

The Secretary of State shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other Soil Conservation District of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the Secretary of State shall find that the name proposed for the district is identical with that of any other Soil Conservation District in this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State Soil Conservation Board, which shall thereupon submit to the Secretary of State a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the Secretary of State shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this State and a public body corporate and politic. The Secretary of State shall make and issue to the said supervisors a certificate under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement.

The boundaries of such district shall include the territory as determined by the State Soil Conservation Board as aforesaid, but in no event shall they include any area included within the boundaries of another Soil Conservation District organized under the provisions of this Act.

G. After six (6) months shall have expired from the date of entry of a determination by the State Soil Conservation Board that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petition may be filed as aforesaid, and action taken thereon in accordance with the provisions of this Act.

H. Petitions for including additional territory within an existing district may be filed with the State Soil Conservation Board, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The Board shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this Act for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion shall be less than one hundred (100), the petition may be filed when signed by a two-thirds majority of owners of land in such area, and in such case, no election need be held. In election upon petitions for such inclusion, all owners of land within the proposed additional area shall be eligible to vote; only such landowners shall be eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of filing and contents thereof.

Method of Selection, Qualifications, and Tenure of Soil Conservation District Supervisors

Sec. 6. Within thirty (30) days after the date of issuance by the Secretary of State of a Certificate of Organization of a Soil Conservation District, the State Soil Conservation Board shall designate a time and place within the subdivisions wherein supervisors are to be elected, giving due notice of such designation in each subdivision of the district wherein elections are to be held. The owners of land within each subdivision shall meet at the time and place as designated by the State Soil Conservation Board for the purpose of electing from within the Subdivision a member to the Board of District Supervisors. The qualified voters present shall proceed by electing a chairman, secretary, and tally clerks. Nominations shall be in order, and when nominations have ceased, the nominee shall be announced by the secretary. The qualified voters present shall, by a written ballot, cast their vote for their choice from among the nominees. When the votes have been tabulated by the tally clerks, if no candidate has received a majority of the total votes cast, the two candidates receiving the largest number of votes shall be voted on in a second ballot, and the candidate receiving the largest number of votes shall be declared elected.

The secretary shall record the proceedings of the meeting, and shall, within five (5) days, certify to the State Soil Conservation Board the name and the proper address of the person elected.

The three (3) members as certified to the State Board shall serve until at a regular election within the subdivisions from which they are elected their successors are elected and have qualified.

The governing body of the district shall consist of five (5) supervisors, composed of the three (3) supervisors elected as provided hereinabove, together with the two (2) supervisors appointed as provided for in Section 5 of this Act by the State Soil Conservation Board. All five (5) such supervisors shall be owners of land within the subdivision from which they are appointed or elected and shall be actively engaged in the business of farming or animal husbandry.

The supervisors shall designate a chairman, vice-chairman, and secretary and may, from time to time, change such designation. Each of the supervisors who are appointed or elected upon creation of the district shall serve until at the regular election of supervisors their successors are elected and have qualified. Beginning with the year 1943, other than the first election and appointment of supervisors within a district, all elections for the election of district supervisors shall be held on the first Tuesday in October. On the first Tuesday in October, 1943, elections shall be held in all five (5) subdivisions in each district within the State for election of supervisors, which shall establish a regular period for elections. Terms of office of supervisors elected on the first Tuesday in October, 1943, shall be as follows: Subdivision No. 1, one year; Subdivision No. 2, two years; Subdivision No. 3, three years; Subdivision No. 4, four years; and Subdivision No. 5, five years, or until their successors are elected and have qualified. Their successors in office shall be elected for a term of five (5) years. In districts created thereafter, the two (2) appointed and the three (3) elected supervisors shall serve until the regular period for elections in corresponding subdivisions in all districts, or until their successors are elected and have qualified. Their successors in office shall serve for the regular five-year term. Terms of office of all supervisors elected shall begin on the day following their election.

Vacancies shall be filled by election for the unexpired term, except that vacancies occurring prior to the first Tuesday in October, 1943, may be filled by appointment by the State Soil Conservation Board. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor may receive compensation for services not to exceed Four Dollars (\$4) for each day he shall be in attendance at the regular meetings of the Board of Supervisors, and Five (5) Cents per mile for travel each way between the residence of a supervisor and the designated business office of the district supervisors. Supervisors shall be paid quarterly for their services, and may not receive compensation and mileage for any number of days in excess of five (5) in any three-month period, except that one member of each Board of Supervisors shall be entitled to receive Four Dollars (\$4) per day not to exceed two (2) days, and Five (5) Cents per mile while attending an annual State-wide meeting of supervisors to be held at a time and place to be determined by the State Soil Conservation Board. The provision providing Five (5) Cents per mile for travel for district supervisors shall be in effect September 1, 1941, and thereafter.

The supervisors may employ such officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the State Soil Conservation Board, upon

request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this Act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements. The State Board may demand and pay the expenses of an audit at any time. Any supervisor may be removed by the State Soil Conservation Board, upon notice and hearing, for neglect of duty or malfeasance in office, or if disqualified as a voter within the district, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located within or near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Powers of Districts and Supervisors

Sec. 7. A Soil Conservation District organized under the provisions of this Act shall constitute a governmental subdivision of this State and a public body corporate and politic exercising public powers, and such district and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this Act:

(1) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in Subsection o, of Section 2 of this Act, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupiers of such lands or the necessary rights or interests in such lands;

(2) To cooperate or enter into agreements with, and, within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this Act;

(3) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties, and to expend such income in carrying out the purposes and provisions of this Act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this Act;

(4) To make available, on such terms as it shall prescribe, to land occupiers within the districts, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(5) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this Act;

(6) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(7) To take over, by purchase, lease, or otherwise, and to administer, any soil conservation, erosion control, or erosion prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil conservation, erosion control, or erosion prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies in connection with the acquisition, construction, operation, or administration of any soil conservation, erosion control, or erosion prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(8) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers, to make, and from time to time amend and repeal, rules and regulations not inconsistent with this Act, to carry into effect its purposes and powers;

(9) As a condition to the extending of any benefits under this Act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in the form of services, materials, or otherwise to any operation conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(10) The supervisors shall have no power to levy taxes, and no debts incurred in the name of the district shall create a lien on lands of landowners or land occupiers in the district.

Adoption of Land-use Regulations

Sec. 8. When petitioned by fifty (50) or more landowners within the district, the supervisors of any district shall have the authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct an election for submission of such regulations to the landowners within the boundaries of the district for their indications of approval or disapproval of

such proposed regulations, and until after the supervisors have considered the result of such election. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for inspection during the period between publication of such notice and the date of the election. The notices of the election shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed Ordinance No. _____, prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed Ordinance No. _____, prescribing land-use regulations for conservation of soil and prevention of erosion," shall appear. The supervisors shall supervise such election, shall prescribe appropriate regulations covering the conduct thereof, and shall announce the result thereof. All owners of land within the district shall be eligible to vote in such election. Only such landowners shall be eligible to vote. The supervisors shall not have authority to enact such proposed ordinance into law unless at least nine-tenths of the votes cast in such election shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by nine-tenths of the votes cast in such election shall be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinance adopted pursuant to the provisions of this Section shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of land within such district.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this Section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this Section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this Section for adoption of land-use regulations or in accordance with variances authorized in Section 10 of this Act; provided, however, that such suspension or repeal may be effected by a majority vote of the qualified voters voting at such election. Elections on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this Section may include:

(1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

(2) Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees, and grasses, forestations, and reforestations;

(3) Specifications of cropping programs and tillage practices to be observed;

(4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

(5) Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources, and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in Section 2 of this Act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened, or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all owners and occupiers of land lying within the district.

Performance of Work under the Regulations by the Supervisors

Sec. 9. The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of Section 8 of this Act are being observed.

Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of Section 8 hereof are not being observed on particular lands, and that such non observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to any Court of competent jurisdiction a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the Court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform, the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the occupier of such land. Upon the presentation of such petition, the Court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the Court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operation or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, from the occupier of such lands, provided further, that in no case shall the total charge for the work done by said supervisors or anyone under them, and to be charged against said lands, ever exceed for any calendar year, ten (10) per cent of the assessed valuation of said lands for State and county purposes. In all cases where the person in possession of lands who shall fail to perform such work, operations, or avoidances, shall not be the owner, the owner of such lands shall be joined as a party defendant.

The Court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such

order of the Court the supervisor may file a petition with the Court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The Court shall have jurisdiction to enter judgment for the amount of such costs and expenses, together with the costs of suit, including reasonable attorney's fee to be fixed by the Court. Such judgments shall be collected in the same manner as that provided for the collection of assessments in Wind Erosion Conservation Districts created by authority of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature of Texas.²

Board of Adjustment

Sec. 10. A. Where the supervisors of any district organized under the provisions of this Act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of Section 9 hereof, they shall further provide by ordinance for the establishment of a Board of Adjustment. Such Board of Adjustment shall consist of three (3) members, each to be appointed for a term of two (2) years, except that one of the members first appointed shall be appointed for a term of one year, or until his successor is elected and qualified. The members of each such Board of Adjustment shall be appointed by the State Soil Conservation Board, with the advice and approval of the supervisors of the district for which such Board of Adjustment has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State Soil Conservation Board and the supervisors of the district.

Vacancies in the Board of Adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State Soil Conservation Board and the supervisors of the district shall be ineligible to appointment as members of the Board of Adjustment during their tenure of such other office. The members of the Board of Adjustment shall receive compensation for their services at the rate of Three Dollars (\$3) per diem for time spent on the work of the Board, not to exceed ten (10) days each year to be paid by the State Soil Conservation Board from appropriations made for that purpose.

The supervisors shall pay the necessary administrative and other expenses of operation incurred by the Board of Adjustment upon the certificate of the chairman of the said Board.

B. The Board of Adjustment shall adopt rules to govern its procedures which rules shall be in accordance with the provisions of this Act and with the provisions of any ordinance adopted pursuant to this section. The Board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Any two (2) members of the Board of Adjustment shall constitute a quorum. The chairman, or in his absence such other member of the Board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the Board of Adjustment and shall be a public record.

C. An occupier of land within the district may file a petition with the Board of Adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon

his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the Board of Adjustment to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied or owned by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the Chairman of the State Soil Conservation Board. The Board of Adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State Soil Conservation Board shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the Board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing, the Board shall determine that there are great practical difficulties or unnecessary hardships in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the Board of Adjustment shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Cooperation Between Districts

Sec. 11. The supervisors of any two (2) or more districts organized under the provisions of this Act may cooperate with one another in the exercise of any or all powers conferred in this Act.

State Agencies to Cooperate

Sec. 12. Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this Act. The supervisors of such district shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to Section 8 of this Act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

Discontinuance of Districts

Sec. 13. At any time after five (5) years after the organization of a District under the provisions of this Act, any fifty (50) or a majority of the landowners within the boundaries of such district may file a petition with the State Soil Conservation Board praying that the operations of the district be terminated and the existence of the district discon-

tinued. The Board may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the Board, it shall give due notice of the holding of an election, and shall supervise such election and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words: "For terminating the existence of the _____ (name of the Soil Conservation District to be here inserted)," and "Against terminating the existence of the _____ (name of the Soil Conservation District to be here inserted)," shall appear.

All owners of land within the boundaries of the district shall be eligible to vote in such election. Only such landowners shall be eligible to vote.

The Board shall publish the result of such election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the Board shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the Board shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the Board shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of landowners eligible to vote in such election who shall have voted, the proportion of the votes cast in such election in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in Section 2 of this Act; provided however, that the Board shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the election shall have been cast in favor of the continuance of such district.

Upon receipt from the State Soil Conservation Board of a certification that the Board has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall transfer all property belonging to the district to the State Soil Conservation Board which may either dispose of it at public auction, and pay over the proceeds of such sale to be covered into the State Treasury, or make the property available for use by other districts. The supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such district, and shall transmit with such application the certificate of the State Soil Conservation Board, setting forth the determination of the Board that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of as in this section provided and shall set forth a full accounting of such properties. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State Soil Conservation Board shall be substituted for the district or supervisors as party to such contracts. The Board shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of Section 9 of this Act, nor the pendency of any action instituted under the provisions of such Section, and the Board shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State Soil Conservation Board shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this Act, more often than once in five (5) years. As amended Acts 1941, 47th Leg., p. 491, ch. 308, § 1.

¹ This article.

² Article 165a—2.

Approved May 20, 1941.

Effective May 20, 1941.

Section 14 of Acts 1939, 46th Leg., p. 7, as amended by Acts 1941, 47th Leg., p. 491, ch. 308, § 1, made an appropriation of \$22,058.34 for the support and maintenance of the State Soil Conservation Board for the period ending August 31, 1941.

Sections 2-5 of the amendatory Act of 1941, read as follows:

"Sec. 2. Preserving action taken under House Bill No. 20, Acts, Forty-sixth Legislature, Regular Session [incorporated in article 165a—4 as amended by section 1 of the repealing act]. House Bill No. 20, Acts Forty-sixth Legislature, Regular Session, is hereby repealed; but nothing in this Act, amending House Bill No. 20, Acts of the Forty-sixth Legislature, Regular Session, shall invalidate any action authorized to be taken under said House Bill No. 20, where said action shall have been taken prior to the effective date of this amendment.

"Sec. 3. Separability Clause. If any provisions of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

"Sec. 4. Inconsistency with other Acts. In so far as any of the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling, except where otherwise indicated in this Act.

"Sec. 5. Repealing and Affirming Certain Acts. A. Senate Bill No. 227, passed

by the Regular Session of the Forty-fourth Legislature, page 504 [Article 165a—1] is hereby repealed.

"B. This Act shall not in anywise repeal House Bill No. 13, Acts of the Forty-second Legislature, Regular Session, [Article 2372c] but the same is hereby expressly preserved in accordance with terms thereof.

"C. This Act shall not in anywise affect, impair, nor impinge upon the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature, [Article 165a—2] under which Wind Erosion Conservation Districts have been created or may hereafter be created, but the same is expressly preserved in accordance with the terms thereof; the State Soil Conservation Board shall have authority, working with the governing bodies of the Wind Erosion Conservation Districts, to put into operation in said Wind Erosion Conservation Districts such provisions of this Act as are not in conflict with the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature.

"D. This Act shall not in anywise repeal Senate Bill No. 386, Acts of the Forty-fifth Legislature, Regular Session, [Title 128, ch. 8, note] but the same is hereby expressly preserved in accordance with terms thereof."

Surplus commodities, commissioners courts authorized to create revolving funds to assist federal government in distributing, see article 2351, § 17.

Art. 165a—6. Rental of county machinery to landowners in counties of 320,000 to 360,000

The Commissioners Court in any county having a population of not less than three hundred and twenty thousand (320,000) and not more than three hundred and sixty thousand (360,000), according to the last United States Census may, by an order duly entered upon the minutes of said Court, rent or let, direct to any landowner in said county, any tractor, grader, machinery, or equipment belonging to said county, to be used by said landowner exclusively upon land situated in said county, in the construction of terraces, dikes, and ditches for the purpose of soil conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; provided that no such tractor, grader, machinery, or equipment shall be rented or let at a time when the county is using or in need of the use of the same, and provided further, that the amount to be paid by the landowner to the county for the use of such tractor, grader, machinery, or equipment shall be agreed upon by the Commissioners Court and the landowner and shall be specified in the order renting or letting the same. Acts 1941, 47th Leg., p. 435, ch. 268, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 22, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Court of any county having a population of not less than three hundred and twenty thousand (320,000) and not more than three hundred and sixty thousand (360,000),

according to the last United States Census, to rent or let to any landowner any tractor, grader, machinery, or equipment belonging to said county to be used exclusively upon land belonging to such owner situated in said county, in the construction of terraces, dikes, and ditches for the purpose of soil conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; and declaring an emergency. Acts 1941, 47th Leg., p. 435, ch. 268.

Art. 165a—7. Rent of county machinery to landowners in counties of 60,000 to 80,000 and counties of 22,000 to 23,000

Section 1. The Commissioners Court in any county having a population of not less than sixty thousand (60,000) and not more than eighty thousand (80,000), according to the last United States Census, may by an order duly entered upon the Minutes of said Court, rent or let, direct to any landowner in said county any tractor, grader, machinery, or equipment belonging to said county, to be used by said landowner exclusively upon land situated in said county, in the construction of terraces, dikes, and ditches for the purpose of soil conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; provided that no such tractor, grader, machinery, or equipment shall be rented or let at a time when the county is using or in need of the use of the same, and provided further, that the amount to be paid by the landowner to the county for the use of such tractor, grader, machinery, or equipment shall be agreed upon by the Commissioners Court and the landowner and shall be specified in the order renting or letting the same.

Sec. 2. The provisions of this Act shall also apply to counties in this State having a population of not less than twenty-two thousand (22,000) or more than twenty-three thousand (23,000) population, according to the last preceding Federal Census. Acts 1941, 47th Leg., p. 604, ch. 372.

Filed without the Governor's signature, June 2, 1941.

Effective June 2, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Court of any county having a population of not less than sixty thousand (60,000) and not more than eighty thousand (80,000), and in all counties in this State having a population of not less than twenty-two thousand (22,000) or more than twenty-three thousand (23,000) inhabitants, according to the last United States Census, to rent or let to any landowner any trac-

tor, grader, machinery, or equipment belonging to said County to be used exclusively upon land belonging to such owner situated in said County, in the construction of terraces, dikes, and ditches for the purposes of said conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; and declaring an emergency. Acts 1941, 47th Leg., p. 604, ch. 372.

CHAPTER ELEVEN—COTTON

Art.

165—4a. Activities of agricultural agencies of state; declaration of policy; appropriation [New].

Art. 165—4a. Activities of agricultural agencies of state; declaration of policy; appropriation

Section 1. Declaration of Policy. By this Act it is expressly declared that the policy of the various agricultural agencies of the State of Texas shall be shaped so that the subject of the increased use and outlet for farm products, especially cotton, shall be stressed as much as the production of said products, and the heads of the various State Agricultural Agencies, departments, schools, colleges, etc., are hereby directed to take full and sufficient consideration of the policy herein established, and that the activities of the various agencies mentioned above be revamped, where same has not already been done, so as to conform with the provisions of this Act.

Sec. 2. The sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars is hereby appropriated, out of any funds in the Treasury of the State of Texas, not otherwise appropriated, for the periods of time shown below, and for the purposes of establishing cotton research facilities in Texas, wherein new uses of cotton, cottonseed, and their products, the expansion of the present uses, and the development and expansion of new markets and outlets, may be sought out and discovered and made available, and such continuing biennial appropriations as may be deemed proper, are hereby specifically authorized. The sums of money appropriated herein shall be allocated and spent under the direction of a Cotton Research Committee, composed of the Presidents of the University of Texas, the Texas A. & M. College, and Texas Technological College, and in specific furtherance of the "Declaration of Policy" set forth in this Act, subject only to such limitations as may otherwise be provided by law.

It is contemplated that the Cotton Research Committee shall cause a careful survey to be made of the most effective way to spend the sums of money appropriated herein, in order that the purposes of this Act may be fully accomplished. The decision of the majority of the members of said Cotton Research Committee, as to the place or places where said research work shall be started and carried on, shall be final. This Act specifically authorizes the acceptance of grants or gifts from the United States Government, or from any private source, to supplement the herein mentioned appropriation. The Comptroller of Public Accounts of the State of Texas is authorized and directed to issue warrants against this

appropriation upon requisition and claims presented and approved by a majority of the Cotton Research Committee established herein. The appropriations herein authorized shall be expended as follows:

	For the Year Ending August 31, 1942	For the Year Ending August 31, 1943
Purchase of laboratory equipment, and the housing and maintenance of same	\$100,000.00	\$ 50,000.00
Salaries, none to exceed \$6,500. per annum, and not more than two to exceed \$5,000. per annum.....	40,000.00	40,000.00
Miscellaneous Supplies, Expenses and Equipment, as the Cotton Research Committee may direct.....	10,000.00	10,000.00
TOTAL	\$150,000.00	\$100,000.00

Any unexpended balance of the above funds not used during the year ending August 31, 1942, is hereby appropriated for corresponding use in the following year. Acts 1941, 47th Leg., p. 759, ch. 474.

Approved June 10, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to declare a State policy regarding the activities of the various agricultural agencies of the State, especially as they affect cotton and cotton products and the increased use and consumption of same; directing that the heads of the State's various agricultural agencies shall take due notice of said policy, and shape the activities of said agencies in accordance therewith; making an appropriation

for the current biennium and authorizing a continuing appropriation for the purpose of establishing cotton research facilities in Texas; establishing a Cotton Research Committee and providing for the membership of said committee; prescribing the duties of said cotton research committee and the scope of its activities and authority; providing for the acceptance of grants or gifts from the United States Government or from private sources; making an appropriation; providing for the Comptroller to pay warrants under said appropriation; and declaring an emergency. Acts 1941, 47th Leg., p. 759, ch. 474.

CHAPTER TWELVE—RICE [NEW]

Art. 165—5. Texas Rice Development Law—Legislative Intent

Section 1. That economic waste and loss of property and natural resources of the State of Texas are being suffered in the rice industry of the State of Texas by lack of proper research for additional uses of rice and the by-products of rice and by lack of proper dissemination of information and proper advertising necessary for the prevention of waste, finding new uses and the development and promotion of the sale of rice grown in the State of Texas; that such unnecessary and unreasonable waste and loss of property and value of property is creating a chaotic condition in the rice industry of the State of Texas which will increase in severity and is now of such nature to imperil the ability of the producers and millers of rice to contribute in appropriate amounts to the support of the ordinary governmental and educational functions, thus tending to increase and actually increasing the tax burden of other citizens for the same purposes; that in the interest of the public welfare and general prosperity of the State of Texas this unnecessary and avoidable loss can and should be eliminated, and this Act shall have as its

purpose the actual elimination of such waste and the conservation of the natural resources and the promotion of the public welfare by acquainting the general public with the health-giving qualities and the food and dietetic value of rice grown in the State of Texas, and finding new uses for the product and for the hulls and straw which are now being destroyed and wasted in enormous quantities each year.

That because the rice grown in Texas comprises one of the major agricultural crops of the State and the business of expanding and increasing the markets and consumption of rice is of public interest and would redound greatly to the general welfare of the State and all of its citizens, and because this Act is designed to promote the general welfare of the State of Texas, and will promote the general welfare of the State, this Act is passed.

Texas Rice Development Law—Short Title

Sec. 2. That this shall be known and cited as the "Texas Rice Development Law," which shall be added as Chapter 12, Article 165-5 to Title 4 of the Revised Civil Statutes of Texas.

Rice Development Commission

Sec. 3. That there is hereby created a Rice Development Commission for the State of Texas, which shall be composed of five (5) persons, not less than three (3) of whom shall be rice growers and two (2) of whom may be rice millers, to be appointed for two-year terms as hereinafter provided, with the advice and consent of the Senate. In appointing the Commission, consideration shall be given to recommendations of persons engaged in the rice industry, and no person shall be appointed to membership on the Commission who is not directly interested in either the growing or milling of rice.

Definition of Terms

Sec. 4. That the terms used in this Act shall be defined as follows:

The term "milled rice" means rice which has been hulled and from which the germ and all or a part of the bran has been removed, and may be either whole or broken, coated or uncoated. The term will also include "brown rice" which means rice that has been hulled and from which the germ and bran have not been removed.

The term "grower" or "rice grower" shall mean and include only those who are actually engaged in growing and producing rice for themselves and who shall not be engaged either directly or indirectly or have any connection with the milling of rice, except as members of a grower cooperative association; and this shall not include anyone who is merely hired or engaged in the growing of rice for other persons.

The term "rice miller" shall mean and include all persons, firms, and corporations who shall process or mill rice within the State of Texas. In any elections held under this Act only the actual individual owner or owners of a mill shall be entitled to vote, and in the case of a corporation, one vote may be cast by the President or other duly authorized agent.

Creation, Collection, and Use of Fund

Sec. 5. That there is hereby levied a processing tax of Two (2) Cents per hundred pounds on all milled rice which is milled or processed in the State of Texas which may be produced from rice grown in the State of Texas by the process of hulling the rice and removing the germ and bran, or any other process which may hull, clean, or mill rice, wheth-

er whole or broken, coated or uncoated, so as to render the product into the condition of "milled rice" as that term is defined herein. This Act shall also include and such tax shall be paid on all rice grown outside the State of Texas which may be processed or milled by a Texas rice miller, as that term is defined herein; provided further that this tax is and shall be on the act of milling the rice, and in no manner is it or shall it be construed as an occupation tax.

Payment of Tax

Sec. 6. That said tax shall be paid by all rice millers in the State of Texas for all rice milled in the State of Texas and shall be payable within the first ten (10) days of each month for all rice milled during the preceding calendar month, which tax shall be remitted direct to the Rice Development Commission hereby created. Any rice miller failing to pay said tax within the time specified and as herein required shall pay a penalty of ten (10) per cent of the amount due, plus one per cent per month for each and every month in which said tax is not paid.

Should any miller collect any such tax or part thereof from a grower, as such are defined in this Act, he shall be guilty of a misdemeanor and upon conviction therefor, be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100).

Examination of books and records; regulations

Sec. 7. That the Texas Rice Development Commission hereby created shall have authority to check and examine the books and records of all rice millers at all reasonable times during business hours and take copies of the same, in order that it may collect the full amount of the tax hereunder, and shall have power to file any suit or suits or take any other actions necessary to force collection or payment of the same. The said Commission is authorized to make such regulations as may be necessary to carry out the powers vested in it by this Act. Any person required to keep any records or supply any information for the purposes of the computation of the amounts due under this Act, who wilfully fails to keep such records or supply such information, shall be guilty of a misdemeanor and upon conviction thereof be fined not more than Five Hundred Dollars (\$500), together with the costs of prosecution, and each failure shall constitute a separate offense.

Administration of Act

Sec. 8. That the Texas Rice Development Commission hereby created shall have full authority to spend said funds so collected in the administration of this Act, in the promotion of sales and advertising of Texas rice and rice products, and for research in and development of new uses for rice and rice products, and may cooperate and act jointly with commissions, boards, departments, or other authorities having similar powers and purposes, created or which may be created by Statutes of the States of Louisiana and Arkansas, and said money may be expended in a joint effort by the three state commissions; boards, departments, or authorities. Accurate books and records shall be maintained at all times, reflecting the operations of the Commission, and such books and records shall be available for public audit and inspection.

Compensation and expenses of Commission

Sec. 9. That the Commission shall serve without pay, except the members thereof shall receive not in excess of Ten Dollars (\$10) per

day for every day actually expended in connection with their duties as provided.

Organization and Authority

Sec. 10. The Commission shall select all necessary employees to carry out the provisions of this Act, provided that such employees shall be paid the same salaries as provided in the general appropriation bill for such similar work; all funds collected hereunder are hereby appropriated to the Texas Rice Development Commission for the purpose of carrying out the provisions of this Act and the Legislature shall have authority to change any salaries set by the Commission; provided, however, that administrative expenses shall never exceed fifteen (15) per cent of the funds collected for each year.

Department of Agriculture, delegation of duties to

Sec. 11. Regardless of the other provisions of this Act, all duties and functions herein delegated to the Texas Rice Commission shall be and are hereby delegated to the Department of Agriculture and shall be administered by and under said Department or any other State Agency hereafter created to perform the present duties of the Commissioner and Department of Agriculture, and the Commissioner or Board of Agriculture shall appoint a Texas Rice Development Commission in accordance with this Act to work with the Department and the Commissions of other States in an advisory capacity, but as a part of the Department of Agriculture and not as a separate or new State Agency.

Form of returns

Sec. 12. That the said Commission shall have authority to prescribe forms upon which rice millers shall be required to make monthly returns of the rice milled and sold by them and the manner in which such returns shall be made.

Effective date of act

Sec. 13. That this Act shall become effective on the first day of August after the Legislatures of Louisiana and Arkansas shall have adopted a similar Statute, assessing a tax of not less than Two (2) Cents per one hundred (100) pounds of milled rice which may be milled in said States, and creating similar commissions, boards, departments, or other authorities with similar powers and purposes. The provisions of this Section and of Section 4 and Section 7, or any other Section or part of this Act in which the validity of such Act depends upon, or is connected with, similar action by the Legislatures of Louisiana and Arkansas, shall be satisfied by the creation and vesting of such authority in any state officer, board, commission, department, or other authority in the States of Louisiana and Arkansas, providing the same powers are delegated to such officer, board, commission, department, or other authority, and providing that a tax is levied of not less than the amount levied herein for such purposes.

Acts of other states

Sec. 14. That the creation of a Rice Development Commission for the State of Louisiana, levying the same tax as herein levied in this State, for the same powers and purposes, and vesting the authority of the Rice Development Commission for Louisiana, under Act No. 112 of the 1940 Legislature, in the Department and Director of the Department of Agriculture, the Department and Director of the Department of Finance, and the Department and Director of the Department of Revenue

for the State of Louisiana created by Act No. 47 and Act No. 48 of the 1940 Legislature, is within the terms of this Act, so that this Act shall become effective on the first day of August after the Legislature of Arkansas shall have adopted a Statute similar in purpose to this Act, or to Act No. 112 of the 1940 Legislature of the State of Louisiana, and levied a tax of not less than Two (2) Cents per hundred pounds of milled rice for similar purposes.

Partial invalidity

Sec. 15. That if any word, phrase, sentence, paragraph, or portion of this Act shall be unconstitutional, it shall not affect the validity of the remaining portions of this Act, but the same shall be construed to be effective, as though the unconstitutional word, phrase, sentence, paragraph, or portion thereof were eliminated.

Expiration of Act

Sec. 16. If this Act shall expire, the Rice Development Commission shall continue to operate its program so long as any funds remain on hand after which it shall be dissolved by order of the Commission and all records deposited with Department of Agriculture.

Expiration of act; elections on extension of act

Sec. 16a. That this Act shall expire in two (2) years after its effective date unless at least sixty (60) per cent of the rice growers and rice millers of Texas, as those terms are defined herein, voting at an election to be held in each county in Texas in which rice is grown or milled on the last Saturday in July in 1943, vote to extend the operation of this Act and the Texas Rice Development Program for another two (2) years. If less than sixty (60) per cent of those voting at such election fail to vote in favor of the extension of the operation of this Act, then the same shall expire two (2) years after its effective date. If at least sixty (60) per cent of those voting at such election favor the extension, then this Act shall continue in effect for an additional two (2) years from its effective date, and similar elections shall be held on the last Saturday of July, 1945, and every two (2) years thereafter so long as the operation of such Act continues in effect, so as to determine whether the operation of same shall be continued or whether it shall expire.

Such elections shall be held by the County Clerk of each county in which one or more rice growers or rice millers grow or mill rice, and ballots shall be furnished for each grower or miller, at any time from 7:00 A. M. to 7:00 P. M. of election day, who shall register his name with the Clerk on a list which shall contain the names of all persons voting at the election, and each person shall make affidavit upon signing such list that he either is a Texas rice grower or a Texas rice miller, as those terms are defined herein, and that he grows or mills rice in such county, after which he shall be given a ballot by the Clerk, which shall be secret and cast in the same manner as in regular general elections, and which shall read as follows: "For the extension of the operation of the Texas Rice Development Law for two (2) years" and "Against the extension of the operation of the Texas Rice Development Law for two (2) years," which shall be marked by the voter as in general elections and canvassed by the County Clerk of each county and reported to the Secretary of State on the Monday following the election, and the Secretary of State shall canvass the returns of the County Clerks on the second Monday following the election, and announce the result and under his official seal declare the number of votes for and number against by

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

counties, and declaring the total, and that the operation of the Act will expire or be extended, as the case may be, in accordance with the terms and conditions of this Act, which action of the Secretary of State shall constitute the official record of the extension or expiration of the operation of this Act.

The printing of ballots and all costs of each election held under this Act shall be paid out of the administration expense of the Texas Rice Commission, including a fee of Ten Dollars (\$10) to each County Clerk whose county casts fifty (50) or more votes and Five Dollars (\$5) to each County Clerk whose county casts more than one but less than fifty (50) votes in such election; and such ballots and return sheets shall be furnished by the Texas Rice Commission. Acts 1941, 47th Leg., p. 695, ch. 434.

Approved May 27, 1941.

Effective date—See section 13 of this Act.

Section 17 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Complementary Laws:

Arkansas, 1941, Act No. 29.

Louisiana, 1940, Act No. 112.

Title of Act:

An Act to promote, encourage, increase, and stimulate the use and sale of Texas rice; declaring the legislative intent with reference to the rice industry; providing a title for the Act; creating a Rice Development Commission; defining terms; levying a tax or assessment on rice milled in the State of Texas; providing for the collection thereof; providing penalty to be assessed for failure to pay said tax; giving certain authority to the Rice Development Commission; requiring the keeping of certain records; providing penalty for failure to comply with the Act; providing for cooperation and joint action with

boards or other authorities which may be created in Louisiana and Arkansas upon which similar powers have been or may be conferred; providing the Commission shall serve without pay except for time actually expended in connection with their duties; providing for employees and appropriating the funds collected to the use of the Commission; delegating all duties and functions of the Texas Rice Commission to the Department of Agriculture; authorizing Commissioner or Board of Agriculture to appoint a Rice Development Commission to help administer said Act; providing when the Act to be effective; providing a saving clause; providing the Act shall expire two (2) years from its effective date unless extended by vote of rice growers; providing for elections on the subject every two (2) years; providing manner of holding elections, form of ballot and how cost to be paid; and declaring an emergency. Acts 1941, 47th Leg., p. 695, ch. 434.

TITLE 5—ALIENS

Art.

176A. Filing of reports by December 31, 1941 [New].

Art. 176A. Filing of reports by December 31, 1941

All aliens and all alien corporations that have not, within the times prescribed by Article 176, filed the reports therein provided for, may file such reports on or before the last day of December, 1941, and such filing shall be deemed compliance with Article 176. Added Acts 1941, 47th Leg., p. 704, ch. 439, § 1.

Approved and effective May 27, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

TITLE 7—ANIMALS

2. DESTRUCTION OF ANIMALS

Art. 190g—1. Bounties on rattlesnakes and predatory animals in Burnet County [New].

Art.

190g—2. Bounties on rattlesnakes and predatory animals in certain counties [New].

2. DESTRUCTION OF ANIMALS

Art. 190a. Bounty for destruction of predatory animals in certain counties

It shall hereafter be lawful for the Commissioners Court of McCulloch, San Saba, Lampasas, Mills, Erath, Limestone, Jasper, Hood, Bastrop, Brazos, Grimes, Sterling, and Childress Counties to pay out of the General Fund of said Counties, bounties for the destruction of wolves, wild cats, and other predatory animals within said Counties as hereinafter provided.

On the petition of two hundred resident freeholders of any one of said Counties, being presented to the Commissioners Court of such County, the Commissioners Court may, by resolution entered upon its Minutes, provide for the destruction of such animals and the amount of bounty to be paid for the destruction of each of said predatory animals and the method of providing such destruction so as to entitle the person destroying such predatory animals to receive said bounty. Provided, that in the Counties of Sterling and Childress, the Commissioners Court is authorized to act upon a petition of as many as fifty (50) resident freeholders of said County.

The amounts paid as bounties for the destruction of predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with him of such proof as the Commissioners Court may require. As amended Acts 1941, 47th Leg., p. 1298, ch. 572, § 1.

Filed without the Governor's signature,
July 1, 1941.

Effective July 2, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 190g—1. Bounties on rattlesnakes and predatory animals in Burnet County

It is hereafter lawful for the Commissioners Court of Burnet County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require. Acts 1941, 47th Leg., p. 36, ch. 23, § 1.

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

Filed without Governor's signature Feb. 27, 1941.

Effective March 7, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act granting the Commissioners Court of Burnet County permission to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals; and declaring an emergency. Acts 1941, 47th Leg., p. 36, ch. 23.

Art. 190g—2. Bounties on rattlesnakes and predatory animals in certain counties

It is hereafter lawful for the Commissioners Courts of Crockett, Sutton, Menard, Mason, Kimble, Kerr, Bandera, Real, Edwards, Schleicher, Tom Green, Irion, Medina, Webb, and Zapata Counties to pay out of the General Fund of said Counties bounties for the destruction of rattlesnakes and predatory animals within said Counties as hereinafter provided.

The Commissioners Court in each County above named may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the methods of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said Counties shall be paid by warrant drawn upon the General Fund by the Judge of such Counties on the filing with them of such proof as the Commissioners Court may require. Acts 1941, 47th Leg., p. 671, ch. 413, § 1.

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Section 2 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act granting the Commissioners

Courts of Crockett, Sutton, Menard, Mason, Kimble, Kerr, Bandera, Real, Edwards, Schleicher, Tom Green, Irion, Medina, Webb, and Zapata Counties permission to pay out of the General Fund of said Counties bounties for the destruction of rattlesnakes and predatory animals; and declaring an emergency. Acts 1941, 47th Leg., p. 671, ch. 413.

TITLE 8—APPORTIONMENT

Art. 198. 29, 21, 16 Supreme Judicial Districts

This State shall be divided into eleven (11) Supreme Judicial Districts, composed of the following named Counties for the purpose of constituting and organizing a Court of Civil Appeals in each of the several Supreme Judicial Districts as follows, to wit:

First: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Colorado, Lavaca, Jackson, Matagorda, Wharton, Brazoria, Fort Bend, Galveston, Anderson, and Houston.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton, Parker, Archer, Young, Jack, and Hood.

Third: Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch, Runnels, Tom Green, Concho, Comal, Fayette, Coke, Sterling, Irion, and Schleicher.

Fourth: Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Live Oak, Zapata, Bee, Karnes, Victoria, Goliad, Hidalgo, Cameron, Starr, Jim Hogg, Real, Brooks, Jim Wells, Kleberg, Kenedy, Willacy, Gillespie, Mason, Gonzales, Calhoun, Refugio, San Patricio, Aransas, Nueces, and DeWitt.

Fifth: Grayson, Collin, Dallas, Rockwall, Henderson, Kaufman, Van Zandt, and Hunt.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Rains, Wood, Upshur, Marion, Harrison, Gregg, Smith, Cherokee, Rusk, Panola, Camp, and Hunt.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent, and King.

Eighth: Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton, Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culberson, and Hudspeth.

Ninth: Shelby, Nacogdoches, Angelina, San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk, Sabine, and San Augustine.

Tenth: McLennan, Freestone, Coryell, Hamilton, Bosque, Navarro, Johnson, Somervell, Falls, Limestone, Hill, Brazos, Leon, Madison, Robertson, and Ellis.

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stone-wall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmorton, Baylor, Coleman, Brown, Comanche, Eastland, Stephens, Erath, Palo Pinto, and Borden. As amended, Acts 1941, 47th Leg., p. 1408, ch. 641.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 read as follows: "This Act shall not affect the jurisdiction on appeal of cases from Coleman and Brown Counties in which the transcript shall have been filed

in the Court of Civil Appeals for the Third Supreme Judicial District prior to the date this Act takes effect. In any case from a trial court of Coleman and Brown Counties in which appeal or writ of error shall have been perfected prior to the taking effect of this Act in which

the transcript shall not have been filed in the Court of Civil Appeals for the Third Supreme Judicial District prior to the date this Act becomes effective, the record in such case shall be filed in the Court of Civil Appeals for the Eleventh Supreme Judicial District of Texas, which shall have jurisdiction; provided, however, that in any case from a trial court of Coleman and Brown Counties in which appeal or writ of error is perfected after the passage and before the taking effect of this Act, if the transcript be filed in the

Court of Civil Appeals for either the Third or the Eleventh Supreme Judicial District of Texas within the time otherwise provided by law, such appeal shall not be dismissed for failure to file the transcript in the proper court, but if filed in the wrong court, the clerk thereof shall transmit the record; together with a transcript of any orders made in the case, to the proper court having jurisdiction."

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 199. 30, 22, 17 Judicial Districts

4.—Rusk.

Special District Court of Rusk County.

Sec. 4. The said Special District Court of Rusk County, Texas, shall be composed of Rusk County, Texas, alone, and shall automatically cease to exist on June 15, 1945. As amended Acts 1941, 47th Leg., p. 540, ch. 335, § 1.

Filed without the Governor's signature, May 26, 1941.

Effective May 27, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

16.—Denton and Cooke.

Official shorthand reporter, appointment and compensation, see article 2321 note.

28.—Nueces, Kleberg and Kenedy.

See 94th Judicial District.

30.—Wichita

The County of Wichita shall hereafter constitute and be the Thirtieth Judicial District of the State of Texas, and the terms of the District Court shall be held in said District beginning on the first Monday in January, March, May, July, September, and November, and each term may continue eight (8) weeks, and the Judge of said Court may, in his discretion, have a grand jury drawn for and organized at any of said terms of Court. Acts 1941, 47th Leg., p. 1386, ch. 626, § 1.

Approved July 23, 1941.

Effective January 1, 1943.

Section 2 of the Act of 1941 relates to the 90th Judicial District and places Young County therein and is set out under the 90th Judicial District, post.

Sections 3 and 4 relate to the 97th Judicial District and place Archer County therein and are set out under the 97th Judicial District, post.

Section 5 read as follows: "That all process and writs heretofore issued out of the District Courts of said respective counties constituting the districts herein mentioned and returnable to terms of Court in said counties according to existing law are hereby made returnable to the terms of the District Courts of said respective counties as said terms are fixed by this Act, and all bonds executed and recognizances entered in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds and

recognizances at the terms of said courts as they are fixed by this Act, and all process heretofore returned, as well as all bonds and recognizances heretofore taken in District Courts of said respective counties shall be as valid as though no change had been made in the said districts and the time of holding courts therein, and all grand and petit jurors drawn and selected under existing laws for any of the counties of said district are hereby declared lawfully drawn and selected for the first term of the District Courts of such respective counties held in conformity with this Act."

Section 6 provides that the act shall take effect and be in operation on and after January 1, 1943. Section 7 repealed all conflicting laws and parts of laws. Section 8 declared an emergency and provided that the Act should take effect from and after its passage.

47.—Randall, Potter and Armstrong

Section 1. That the 47th Judicial District shall be composed of the Counties of Randall, Potter, and Armstrong, and the terms of said Court shall be, beginning with the first Monday in January, A.D. 1942, held in said Counties as follows:

In the County of Randall, on the first Monday in January, and may continue in session three (3) weeks; on the sixteenth Monday after the first Monday in January, and may continue in session two (2) weeks; and on the eighth Monday after the first Monday in August, and may continue in session three (3) weeks.

In the county of Potter, on the fourth Monday in January, and may continue in session ten (10) weeks; on the fifteenth Monday after the fourth Monday in January and may continue in session eight (8) weeks; on the first Monday in August, and may continue in session eight (8) weeks; and on the fourteenth Monday after the first Monday in August, and may continue in session until the business is disposed of.

In the County of Armstrong, on the tenth Monday after the fourth Monday in January, and may continue in session three (3) weeks; and on the eleventh Monday after the first Monday in August, and may continue in session three (3) weeks. As amended Acts 1941, 47th Leg., p. 743, ch. 464, § 1.

Sec. 2. Until the first Monday in January, A. D. 1942, the terms of said Court shall remain in full force and effect as now prescribed by law. Acts 1941, 47th Leg., p. 743, ch. 464.

Filed without the Governor's signature,
June 7, 1941.

Effective June 10, 1941.

Section 3 of the amendatory Act of 1941
declared an emergency and provided that
the Act should take effect from and after
its passage.

70.—Howard, Martin, Midland, Ector and Glasscock.

Section 1. The Seventieth Judicial District of Texas shall be composed of the Counties of Martin, Howard, Midland, Ector, and Glasscock, and the terms of the District Court of said District shall be held therein each year as follows:

In the County of Martin on the first Monday in January of each year and may continue in session two (2) weeks; on the twenty-sixth Monday after the first Monday in January of each year and may continue in session two (2) weeks.

In the County of Howard on the second Monday after the first Monday in January of each year, and may continue in session four (4) weeks; on the fourteenth Monday after the first Monday in January of each year, and may continue in session five (5) weeks; on the first Monday in September of each year and may continue in session four (4) weeks; on the twelfth Monday after the first Monday in September of each year, and may continue in session four (4) weeks.

In the County of Midland on the sixth Monday after the first Monday in January of each year and may continue in session four (4) weeks; on the nineteenth Monday after the first Monday in January of each year and may continue in session four (4) weeks; on the fourth Monday after the first Monday in September of each year and may continue in session four (4) weeks.

In the County of Ector on the tenth Monday after the first Monday in January of each year and may continue in session four (4) weeks; on the twenty-third Monday after the first Monday in January of each year and may continue in session three (3) weeks; on the eighth Monday after the first Monday in September of each year and may continue in session four (4) weeks.

In the County of Glasscock on the twenty-eighth Monday after the first Monday in January of each year and may continue in session one (1) week; on the sixteenth Monday after the first Monday in September of each year and may continue in session one (1) week.

Section II. All processes and writs issued out of, and bonds and recognizances entered into and all grand or petit jurors drawn before this Act takes effect, shall be valid for and returnable to the next succeeding term of the District Court in and for the several Counties as herein fixed, as though issued and served for such terms and returnable to and drawn for the same, and all such processes, writs, bonds and recognizances taken before or issued by the various Counties affected by this Act shall be as valid as though no change has been made in the time of the holding of the terms of Court herein.

Section III. It is further provided that if any Court in any County of the Seventieth Judicial District as same existed prior to the passage of this Act, shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter the Court in such County or Counties shall conform to the terms of this Act. As amended Acts 1941, 47th Leg., p. 417, ch. 247, § 1.

Filed without the Governor's signature,
May 12, 1941.

Effective May 21, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws, and section 3 declared an emergency and provided that the Act should take effect from and after its passage.

86.—Van Zandt, Kaufman and Rockwall.

Section 1. The Counties of Van Zandt, Kaufman, and Rockwall constitute the 86th Judicial District of the State of Texas, and the terms of the District Court shall be held therein each year as follows:

Van Zandt County: On the first Monday in January and continue six (6) weeks; on the sixteenth Monday after the first Monday in January and continue eight (8) weeks; and on the thirty-fifth Monday after the first Monday in January and continue six (6) weeks.

Kaufman County: On the sixth Monday after the first Monday in January and continue seven (7) weeks; on the twenty-fourth Monday after the first Monday in January and continue eight (8) weeks; and on the forty-first Monday after the first Monday in January and continue six (6) weeks.

Rockwall County: On the thirteenth Monday after the first Monday in January and continue three (3) weeks; on the thirty-second Monday after the first Monday in January and continue three (3) weeks; and on the forty-seventh Monday after the first Monday in January and continue three (3) weeks. As amended Acts 1941, 47th Leg., p. 394, ch. 226, § 1.

Filed without the Governor's signature,
May 12, 1941.

Effective Jan. 1, 1942.

Section 2 of the amendatory Act of 1941 read as follows: "This Act shall take ef-

fect and be in force from and after January 1, 1942, and the terms of Court for the 86th Judicial District shall remain unchanged for the year 1941."

90.—Stephens and Young.

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

In the County of Stephens, on the first Monday in January, March, May, July, September, and November, and may continue in session until

Saturday immediately preceding the Monday for convening the next regular term of such Court in Stephens County.

In the County of Young on the first Monday in February, April, June, August, October, and December of each year and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Young County.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

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

The District Judge and District Attorney of the Ninetieth Judicial District now elected and acting as such shall continue to hold the offices of District Judge and District Attorney of the Ninetieth Judicial District in and for Stephens County and Young County, until the terms for which they have been elected expire and until there have been elected and qualified successors thereto. Acts 1941, 47th Leg., p. 1386, ch. 626, § 2.

Effective date. See note under article 199-30.

Section 1 of the Act of 1941 relates to the 30th Judicial District and is set out under the 30th Judicial District, ante.

Sections 3 and 4 relate to the 97th Judicial District and are set out under the 97th Judicial District, post.

Sections 5-8 are set out in the note under the 30th Judicial District, ante.

94.—Nueces.

Section 1. There is hereby created for and within Nueces County the 94th Judicial District of Texas, and a District Court for said Judicial District, the limits of which shall be coextensive with the limits of Nueces County.

Sec. 2. The District Court for the 94th Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and the Laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and Laws of this State on the Judges of District Courts. Its jurisdiction shall be concurrent with that of the District Court of Nueces County for the 28th Judicial District and the District Court of Nueces County for the 117th Judicial District.

Sec. 3. The terms of the 94th District Court shall begin on the first Mondays, respectively, in February, April, June, August, October, and December of each year, and each term may continue for eight (8) weeks.

Sec. 4. The Clerk of the District Courts of Nueces County shall, upon the taking effect of this Act, assume the duties of Clerk of the 94th District Court, and shall thereafter perform the duties of such; as if the Court had existed at the time of his election. He shall promptly prepare a docket for the 94th District Court, placing thereon such cases as may be filed in said Court and as may be transferred to said Court; provided that no case then on trial in the 28th District Court of Nueces County or the 117th District Court of Nueces County nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby.

Sec. 5. The letters "A," "B," and "C" shall be placed upon the dockets and Court papers in the respective District Courts of Nueces County to distinguish them, "A" being used in connection with the 28th District Court, "B" the 117th District Court, and "C" the 94th District Court.

Sec. 6. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with

the next number after the last file number on the docket of the existing Courts, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 5 of this Act.

Sec. 7. The respective Judges of the 28th, 117th, and 94th Judicial Districts shall from time to time, as occasion may require, transfer cases from one to another in order that the business may be equally distributed among them, that the Judges of all of said Courts may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 8. This Act shall not, in any manner, affect the status of the Criminal District Court of Nueces County nor the Judge or District Attorney thereof.

Sec. 9. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 94th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next General Election, and until his successor shall have been elected and qualified, and thereafter the Judge of the District Court of the 94th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District Judges. There shall be elected by the qualified voters of Nueces County, at the next General Election after this Act takes effect, a Judge for the District Court of the 94th Judicial District of Texas, who shall hold office for the remainder of the period of time specified in Section 10 of this Act, and whose powers and duties shall be the same as other District Judges, and who shall receive such salary as is now or may hereafter be prescribed by law for District Judges of the District Courts of the State of Texas, to be paid in the same manner.

Sec. 10. The said 94th Judicial District of Texas shall be composed of Nueces County, Texas, alone and shall automatically cease to exist July 1, 1945, and all terms and provisions hereof shall, upon the expiration of four (4) years from the date this Act becomes effective, be and become of no further force and effect whatsoever.

Sec. 11. At the expiration of the time for which said 94th Judicial District of Texas is created, the Judge thereof shall deliver all the dockets and records of said Court to the Clerk of the District Court of the 117th Judicial District of Nueces County, Texas, for safekeeping and preservation, and any cause or causes upon the docket of said 94th Judicial District Court shall, at said time, be automatically transferred to the docket of the 117th Judicial District Court in and for Nueces County and the Judge of the 117th Judicial District shall thereafter have full power, authority, and jurisdiction to try all such cases, to approve all statements of fact, bills of exception, and make any and all orders, judgments, and decrees proper and necessary in the cases theretofore tried in said 94th Judicial District Court or pending in said 94th Judicial District Court and transferred to said 28th Judicial District Court as provided for herein. Acts 1941, 47th Leg., p. 104, ch. 84.

Filed without the Governor's signature,
March 31, 1941.

Effective April 9, 1941.

Section 12 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Former 94th Judicial District was omitted by Acts 1935, 44th Leg., p. 499, ch. 210, § 1. See note to "37, 45, 57, 73" Judicial Districts.

Title of Act:

An Act creating the 94th Judicial District Court for Nueces County; defining its jurisdiction; adjusting business of the 28th District Court of Nueces County and the 117th District Court of Nueces County

with the Court created hereby; prescribing the duties of the District Clerk with respect thereto; excluding the Criminal District Court of Nueces County from the provisions of the Act; providing for the appointment and subsequent election of a Judge; and fixing the time during which said Court shall exist; and declaring an emergency. Acts 1941, 47th Leg., p. 104, ch. 84.

97.—Archer, Clay and Montague.

The Counties of Archer, Clay and Montague shall hereafter constitute and be the Ninety-seventh Judicial District of the State of Texas, and the terms of the District Courts shall be held in said district as follows:

In Archer County on the first Monday in January and may continue four (4) weeks; on the 13th Monday after the 1st Monday in January and may continue four (4) weeks; on the 25th Monday after the 1st Monday in January and may continue four (4) weeks; on the 37th Monday after the 1st Monday in January and may continue four (4) weeks.

In Clay County on the 5th Monday after the 1st Monday in January and may continue four (4) weeks; on the 17th Monday after the 1st Monday in January and may continue four (4) weeks; on the 29th Monday after the 1st Monday in January and may continue four (4) weeks; on the 41st Monday after the 1st Monday in January and may continue four (4) weeks.

In Montague County on the 9th Monday after the 1st Monday in January and may continue four (4) weeks; on the 21st Monday after the 1st Monday in January and may continue four (4) weeks; on the 33rd Monday after the 1st Monday in January and may continue four (4) weeks. Acts 1941, 47th Leg., p. 1386, ch. 626, § 3.

The County Attorneys of the respective counties embraced within the Ninety-seventh Judicial District shall do and perform the duties of County Attorneys and District Attorneys in their respective counties, and shall receive such fees for their services as are now or may hereafter be provided by law. Acts 1941, 47th Leg., p. 1386, ch. 626, § 4.

Effective date. See note under article 199-30.

Section 1 of the Act of 1941 relates to the 30th Judicial District and is set out under the 30th Judicial District, ante.

Section 2 relates to the 90th Judicial District and is set out under the 90th Judicial District, ante.

Sections 5-8 are set out in the note under the 30th Judicial District, ante.

106.—Terry Lynn, Garza, Dawson, Gaines and Yaakum.

The One Hundred and Sixth Judicial District shall be composed of the Counties of Terry, Lynn, Garza, Dawson, Gaines, and Yoakum, and the terms of the District Courts of each of said Counties shall be hereafter held therein each year as follows:

In the County of Terry beginning on the first Monday in January and on the fourth Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Terry County.

In the County of Lynn beginning on the fourth Monday after the first Monday in January and on the first Monday after the fourth Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Lynn County.

In the County of Garza beginning on the eighth Monday after the first Monday in January and on the fourth Monday after the fourth Monday in August, and may continue in session until the Saturday immedi-

ately preceding the Monday for convening the next regular term of such Court in Garza County.

In the County of Dawson beginning on the twelfth Monday after the first Monday in January and on the seventh Monday after the fourth Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Dawson County.

In the County of Gaines beginning on the sixteenth Monday after the first Monday in January and on the tenth Monday after the fourth Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Gaines County.

In the County of Yoakum beginning on the twentieth Monday after the first Monday in January and on the thirteenth Monday after the fourth Monday in August, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in Yoakum County.

Any term of Court may be divided into as many sessions as the Judge thereof may deem expedient for the dispatch of business.

All process issued or served, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. As amended Acts 1941, 47th Leg., p. 529, ch. 325, § 1.

Filed without the Governor's signature,
May 24, 1941.

Effective May 26, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

117.—Nueces.

See 94th Judicial District.

124.—Gregg, and Special District Court for Gregg County.

Sec. 8. Said Special District Court of Gregg County, Texas, created by this Act, shall automatically cease to exist upon the effective date of this Act and all terms and provisions of House Bill No. 226 of the Regular Session of the 44th Legislature,¹ and amendments thereto, appertaining to the Special District Court of Gregg County, Texas, shall be and become of no further force and effect upon the effective date of this Act. As amended Acts 1941, 47th Leg., p. 27, ch. 158, § 1.

¹ This article.

Approved April 18, 1941.

Effective April 18, 1941.

Sections 2 and 3 of the amendatory Act of 1941 read as follows: "Sec. 2. It is hereby declared to be the intent of the Legislature to repeal House Bill No. 82 of the Second Called Session of the 45th Legislature which amended Section 8 of House Bill No. 226 of the Regular Session of the 44th Legislature and which extended the existence of the Special District Court of Gregg County, Texas, to the 25th day of January, 1943.

"Sec. 3. Upon the effective date of this Act, the Judge thereof shall deliver all of the dockets and records of said Court to the Clerk of the District Court for Gregg County, Texas, for safe keeping and preservation, and any case or cases pending upon the docket of said Special District

Court at the time of its expiration shall be, by said District Clerk, transferred to the docket of the District Court for the One Hundred Twenty-fourth Judicial District of Gregg County, Texas. The Judge of said Special District Court shall also have authority and power, after the expiration of his term of office, to approve any and all Statements of Facts, Bills of Exceptions, or make any other order necessary in cases tried in said Special District Court to effect a final disposition thereof, and the Judge of the One Hundred Twenty-fourth District Court of Texas shall, after such cases have been transferred to his docket, have full power, authority and jurisdiction to try all such cases pending in said Court, and shall have concurrent power, authority and jurisdiction with the Judge of the Special Dis-

strict Court for Gregg County, after his office shall have expired by the termination of such Court, to approve all Statements of Facts, Bills of Exceptions and to make any all other orders, judgments and decrees proper and in the cases theretofore tried

in said Special District Court for Gregg County, Texas."

Section 4 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 10A—ARCHITECTS [NEW]

Art. 249a. Architects to register

Fees, disposition of; salaries and expenses; Architects' Registration Fund

Sec. 4. All fees which are provided to be charged by virtue of this Act shall be deposited in the State Treasury, to the credit of a fund to be known as "Architects Registration Fund," and an appropriation from said Fund, in an amount not to exceed Six Thousand, Five Hundred Dollars (\$6,500) per year, and in no case more than the amount on hand in said Fund, is hereby made and authorized to pay all salaries, compensations, and other expenses of said Board, or incurred by said Board in the discharge of their duties. Said salaries, compensations, and other expenses shall be paid by drafts for the proper amounts drawn upon said Fund and signed by the Secretary-Treasurer and countersigned by the Chairman of said Board.

If, at any time when the books and records of the Board are audited, as provided for in Section 3 of this Act, it is found that there is more than Six Thousand, Five Hundred Dollars (\$6,500) on hand in the hereinabove named Architects Registration Fund, and in the hands of the Board, then all money over and above that total amount, Six Thousand, Five Hundred Dollars (\$6,500), shall be permanently diverted to the General Revenue Fund of this State.

The Secretary-Treasurer of the Board shall receive such monthly compensation for his or her services as shall be determined by the Board, by resolution adopted at a regular meeting of said Board, but in no case shall such compensation exceed One Thousand, Eight Hundred Dollars (\$1,800) per year, exclusive of allowable expenses of office. The other members of the Board shall each receive as compensation for their services, in addition to their necessary expenses, the sum of Ten Dollars (\$10) for each and every day actually spent by them in going to, attending, and returning from regular and special meetings of said Board, and in conducting examinations of applicants for registration certificates as provided for by this Act, and in prosecuting violations of this Act, but in no case shall the compensation to any one member of the Board, other than the Secretary-Treasurer of the Board, exceed Six Hundred Dollars (\$600) per year, exclusive of allowable expenses. Provided further the number of employees and the salaries of each shall be as fixed in the Biennial Departmental Appropriation Bill. As amended Acts 1941, 47th Leg., p. 478, ch. 301, § 1.

Approved May 20, 1941.

Effective May 20, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

TITLE 13—ATTACHMENT

Art. 280. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 592, Vernon's Texas Rules of Civil Procedure.

Art. 282. 248, 194, 160 Writ to issue instanter

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 593, Vernon's Texas Rules of Civil Procedure.

Arts. 283–286. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 594, 595, 596, 597, Vernon's Texas Rules of Civil Procedure.

Art. 289. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 598, Vernon's Texas Rules of Civil Procedure.

Arts. 292–299. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 599–601, 603–607, 615–618, Vernon's Texas Rules of Civil Procedure.

Art. 303. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 608, Vernon's Texas Rules of Civil Procedure.

TITLE 14—ATTORNEYS AT LAW

Art. 318. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 76, Vernon's Texas Rules of Civil Procedure.

Art. 320. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 12, Vernon's Texas Rules of Civil Procedure.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS	Art.
Art. 326k—10. Assistants and stenographers in districts composed of only one county of 50,500 to 55,000, having specified tax value; appointment; salary [New].	326k—11. Certain county attorneys designated criminal district attorney [New]. 326q. Criminal district attorney in counties of 33,500-75,000 population [New].

1. DISTRICT ATTORNEYS

Art. 322b. Fannin and Lamar Counties; County Attorney to represent state; stenographer

The office of District Attorney in the Sixth Judicial District of Texas is hereby abolished and the County Attorney of each county composing said district, to wit: Fannin and Lamar Counties, shall represent the State of Texas in all matters wherein the State of Texas is a party in his respective county and shall receive such fees and compensation for his services as is now, and may hereafter, be provided by General Laws of the State of Texas; and provided further that each said County Attorney may employ a stenographer by and with the consent of the Commissioners Court of his county, to be paid such salary from county funds as shall be fixed by order of the Court. As amended Acts 1941, 47th Leg., p. 419, ch. 248, § 1.

Approved May 8, 1941.

Effective May 8, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

Art. 324. Assistants in certain counties

In any judicial district in this State consisting of more than one county in which there is situated a city of not less than thirty-four thousand (34,000) inhabitants and not more than forty-four thousand (44,000) inhabitants, according to the last preceding Federal Census, the district attorney shall appoint one assistant district attorney, provided the district attorney shall furnish data to the district judge of his district that he is in need of an assistant and is himself unable to attend to all the duties required of him by law, and that it is necessary to the best interest of the State that an assistant district attorney be appointed. Said assistant district attorney so appointed shall be a qualified resident of the district in which said appointment is made and shall give bond and take the official oath. The said assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney under the laws of this State; said appointment shall be for such time as the district attorney shall deem best in the enforcement of the law, not to be less than one month. Said assistant district attorney shall be paid by the Comptroller for the time of actual service rendered at the rate of Twenty-five Hundred Dollars (\$2500) per annum. Said sum shall be paid upon certificates of the district attorney of said district that said assistant district attorney has performed his duties and is entitled to pay. The district attorney of any such district at any time he deems said assistant unnecessary, or finds that he is not attending to his duties as required by law, may remove said

person from office by merely writing to said district judge to that effect. As amended Acts 1941, 47th Leg., p. 384, ch. 215, § 1.

Filed without the Governor's signature,
 May 9, 1941.

Effective May 20, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 326k—10. Assistants and stenographers in districts composed of only one county of 50,500 to 55,000, having specified tax value; appointment; salary

That from and after the passage of this Act, in Judicial Districts composed of and confined to one County only and in which said Judicial District and County the population as determined by the last preceding Federal Census is not less than fifty thousand five hundred (50,500) and not more than fifty-five thousand (55,000) inhabitants and in which said Judicial District and County the tax value exceeds Seventy Million (\$70,000,000.00) Dollars according to the last approved tax roll, the District Attorney or Criminal District Attorney of said Judicial District and County may appoint not to exceed two (2) Assistants who shall possess the qualifications of a District Attorney and one stenographer, one (1) of said Assistants to receive a salary of Three Thousand (\$3,000.00) Dollars per annum and one of said Assistants to receive a salary of Twenty-seven Hundred Fifty (\$2750.00) Dollars per annum, and the said stenographer to receive a salary of Fifteen Hundred (\$1500.00) Dollars per annum, the salaries of said Assistants and the stenographer to be paid in the manner now prescribed by law for the payment of salaries of like Assistants and deputies. Acts 1941, 47th Leg., p. 40, ch. 28, § 1.

Filed without Governor's signature March 4, 1941.

Effective March 12, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the appointment by the District Attorney or Criminal District Attorney of Assistants and a stenographer in Judicial Districts composed of and confined to one County only and in which Judicial District and County the population

as determined by the last preceding Federal Census is not less than fifty thousand five hundred (50,500) and not more than fifty-five thousand (55,000) inhabitants and in which said Judicial District and County the tax value exceeds Seventy Million (\$70,000,000.00) Dollars according to the last approved tax roll, fixing the compensation of said Assistants and the stenographer and providing for the manner in which same shall be paid, and declaring an emergency. Acts 1941, 47th Leg., p. 40, ch. 28.

Art. 326k—11. Certain county attorneys designated Criminal District Attorney

Section 1. In any county in this State not embraced in or constituting either a Criminal District Attorney's District or a District Attorney's District, and wherein the duty of representing the State in all criminal matters arising in such county devolves upon the County Attorney of such county, the Commissioners' Court thereof, upon petition of such County Attorney at any time during a non-election year, may, by appropriate action spread upon the minutes of such Commissioners' Court, designate the office of County Attorney in such county as the office of Criminal District Attorney of such County, and the incumbent of such office as the Criminal District Attorney of such County; and thereafter and until such time as such county shall be included within a regularly created and constituted District Attorney's District or Criminal District Attorney's District, such office shall be designated as the of-

office of Criminal District Attorney of such county, and the incumbent thereof shall be designated as the Criminal District Attorney of such county; providing that such change in the designation and appellation of such office and the incumbent thereof, as aforesaid, shall in no manner alter or affect either the previous election and qualifications of the incumbent thereof, nor shall the same thereafter alter or affect either the rights, duties, or emoluments of such office or the incumbent thereof; and providing further that in all elections thereafter held to fill such office, and so long as the same shall be so designated, the said office shall be designated upon the ballot and in the election as the office of Criminal District Attorney of such county; and providing further that in the event any such county be thereafter embraced in or constitute a regularly created District Attorney's District or Criminal District Attorney's District, the designation of County Attorney shall be restored to such office unless the office of County Attorney be abolished in such county.

Intent of Act

Sec. 2. It is not the intention of this Act to create any office of District Attorney or any other Constitutional office; but it is the intention of this Act merely to authorize a change in the name and appellation of the office of County Attorney and the incumbent thereof in certain counties, without otherwise changing or affecting the rights, duties, or emoluments either of such office or the incumbent thereof.

Repeal

Sec. 3. This Act is not intended and shall not be considered or construed as repealing any law now in the statute books, except those in conflict therewith; but it shall be cumulative thereof. Acts 1941, 47th Leg., p. 477, ch. 300.

Approved May 20, 1941.

Effective May 20, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners' Court in counties not embraced in a regularly constituted District Attorney's District or Criminal District Attorney's District, and wherein the State of Texas is represented in all criminal matters aris-

ing in such county by a County Attorney, to designate such office as the office of Criminal District Attorney of such county, and to designate the incumbent thereof as the Criminal District Attorney of such county without in anywise affecting the duties, obligations, qualifications, elections, or emoluments pertaining to such office or the incumbent thereof; declaring the intent of this Act; providing this Act shall be cumulative of all other laws; and declaring an emergency. Acts 1941, 47th Leg., p. 477, ch. 300.

Art. 326n. District attorneys, assistants, investigators and salaries in certain judicial districts

Sec. 4. That in such Judicial Districts the District Attorney, with the consent of the District Judges and the County Judge of such County, is hereby authorized to appoint, at his discretion, not more than two (2) Investigators or Assistants, who may be duly and legally licensed to practice law in the State of Texas; who shall receive a salary of not more than Twenty-seven Hundred (\$2700.00) Dollars per annum, nor less than Eighteen Hundred (\$1800.00) Dollars per annum, the amount of such salary to be fixed by the District Attorney and approved by the said Judges. Such Investigators or Assistants as well as the District Attorney shall be allowed a reasonable amount for expenses, not to exceed Six Hundred (\$600.00) Dollars each per annum. Said District Attorney shall also be authorized to appoint a stenographer who shall re-

ceive a salary not to exceed Fifteen Hundred (\$1500.00) Dollars per annum. The salaries of such Investigators or Assistants, and stenographer, and the expenses, provided for in this section shall be paid monthly by the Commissioners' Court of the County comprising such Judicial Districts, out of the General Fund of the County, or in the discretion of the Commissioners' Court, out of the jury fund of said County upon the certificate of the District Attorney. Said Investigators or Assistants may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws. Should the District Attorney designate the persons appointed as Assistants, they shall be in addition to and shall have the same authority and qualifications and shall be subject to the same requirements as those Assistants provided for in Section 2 of this Act and Section 2 of Senate Bill No. 528 of the Regular Session of the 44th Legislature.¹ As amended Acts 1941, 47th Leg., p. 172, ch. 124, § 1.

¹ Article 326k—7, § 2.

Filed without the Governor's signature
 April 16, 1941.

Effective April 28, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 326q. Criminal district attorney in counties of 33,500—75,000 population

Section 1. In those counties in this State having a population of not less than Thirty Three Thousand Five Hundred (33,500) and not more than Seventy Five Thousand (75,000) inhabitants and not containing a city of more than Fifty Thousand (50,000) inhabitants as determined by the last preceding Federal Census, and each succeeding Federal Census thereafter, and in which counties there are one or more Judicial Districts, and in which the County Attorney performs the duties of County Attorney and District Attorney, and in which there is not now a District Attorney, the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. A Criminal District Attorney shall be elected in each such county at the next general election, and at each succeeding general election after the passage of this Act. He shall hold his office for the period of two years and until his successor is elected and qualified. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State for other District Attorneys. And it is further provided and directed that the person who is the present County Attorney of any such county shall continue in office and take the oath and give the bond required by the Constitution and laws for other District Attorneys and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the affairs of the office of Criminal District Attorney of such county and appoint assistants as provided in this Act, and receive the fees provided for in this Act for such office until the next general election and until his successor shall be elected and qualified.

Sec. 2. The Criminal District Attorney of any such county shall have and exercise, all such powers, duties and privileges within such county as are by Law now conferred or which may hereafter be conferred upon District and County Attorneys.

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same fees allowed by Law for County Attorneys in misdemeanor cases, including fees for representing the State in Cor-

poration Courts, and shall be paid the following fees by the State in the manner provided by Law for paying the fees of County and District Attorneys:

For each conviction of felonious homicide and for each conviction where the punishment fixed by the Statute may be death, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal judgment is affirmed, the sum of Forty (\$40.00) Dollars. For all other convictions in felony cases where the defendant does not appeal or dies or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal the judgment is affirmed, the sum of Thirty (\$30.00) Dollars. For representing the State in each case of habeas corpus where the defendant is charged with a felony, the sum of Sixteen (\$16.00) Dollars. But only three such fees of \$16.00, each, shall be paid for representing the State in such Habeas Corpus proceedings brought by any one defendant, no matter how many writs may have been issued. For representing the State in each examining trial, in felony cases, where indictment is returned, in each case the sum of Five (\$5.00) Dollars. The Criminal District Attorney shall receive such fees and remuneration for other services rendered by him as is now or may hereafter be authorized by Law to be paid to District and County Attorneys in this State for such services, including the same fees now fixed and allowed by Law in misdemeanor cases to County Attorneys. The Criminal District Attorney shall be allowed to retain out of the fees earned and collected by him the sum of Five Thousand Five Hundred (\$5,500.00) Dollars per annum, as his compensation. After deducting the Five Thousand Five Hundred (\$5,500.00) Dollars the remaining amount is to be applied first to the payment of salaries of his assistant or assistants in those counties where said assistant or assistants are now being paid from the fees of the office of County Attorney, and second, the actual and necessary expenses incurred by him and his assistants in the conduct of his said office, as authorized by Article 3899 of the Revised Civil Statutes of 1925, as amended, and any other expenses allowed by Law. In arriving at the amount collected by him, he shall include the fees arising from all classes of Criminal cases, whether felonies or misdemeanors arising in any Court in such county, including habeas Corpus hearings and fines and forfeitures and including fees for representing the State in Criminal actions in Corporation Courts, such latter fees to be the same as those fixed by Law for like services in Justice Courts. The Criminal District Attorney shall represent the State and county in all suits, including suits for Inheritance Tax, as is now provided for District and County Attorneys, and shall receive the same fees as received by District and County Attorneys and the said fees in Delinquent Tax and Inheritance Tax suits shall be accounted for and included in his annual report. The Criminal District Attorney may also receive such ex-officio salary, to be paid out of any available funds of the County, as may be fixed by the County Commissioners' Court, such ex-officio salary to be accountable as fees of office.

Sec. 3a. Provided that in all counties affected by this Act where the Criminal District Attorney receives a salary as compensation for his services, said Criminal District Attorney and his assistants shall be empowered and permitted to incur reasonable and necessary expenses in investigating crime and accumulating evidence in criminal cases and shall be allowed Four (4) Cents a mile for each mile traveled by the said Criminal District Attorney or his assistants in an automobile furnished by the Criminal District Attorney in the discharge of official business, which sum shall cover all expenses allowed by law. Such expenses

shall be reported to the Commissioners Court of the county as other expenses are reported and shall be paid as other expenses are paid. As added Acts 1941, 47th Leg., p. 603, ch. 371, § 1.

Filed without the Governor's signature,
May 29, 1941.

Effective May 29, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Sec. 4. The Criminal District Attorney may appoint not to exceed three (3) assistants and one stenographer, same to be ratified by the Commissioners' Court. One of said assistants shall receive a salary not to exceed Three Thousand (\$3,000.00) Dollars per annum one of said assistants shall receive a salary not to exceed Two Thousand Four Hundred (\$2,400.00) Dollars per annum, and one of said assistants shall receive a salary not to exceed One Thousand Eight Hundred (\$1,800.00) Dollars per annum. The stenographer shall receive a salary not to exceed One Thousand Five Hundred (\$1,500.00) Dollars per annum. Said assistants and stenographer to be paid in the same manner as the assistants and stenographer to the County Attorney as are now being paid in the several counties affected by this Act. Upon appointment and confirmation such assistants shall take the oath of office and be authorized to perform the duties devolving upon the Criminal District Attorney and to exercise any power conferred by Law upon County and District Attorneys. Said Criminal District Attorney may also appoint one or more assistants who need not possess the qualifications required by Law of Criminal District Attorneys or County Attorneys, such appointment to be governed by the provisions of Article 3902 of the Revised Civil Statutes of 1925 and the duties of such assistants are to be directed by said Criminal District Attorney.

Sec. 5. The Criminal District Attorney shall at the close of each month of the tenure of said office make the report required of County officers by Article 3899 of the Revised Civil Statutes of 1925, as amended, and shall also, at the close of each fiscal year make the annual report required of county officers by Article 3897 of the Revised Civil Statutes of 1925, as amended.

Sec. 5-A. It is not the intention of this Act to create any office of District Attorney nor any other Constitutional office and the office of Criminal District Attorney is hereby declared to be a separate and distinct office from the Constitutional office of District Attorney and no Criminal District Attorney shall draw or be entitled to any salary whatsoever from the State of Texas.

Sec. 6. This Act is not intended and shall not be considered or construed as repealing any Law now in the Statute Books except those in conflict herewith, but shall be cumulative thereof. [Acts 1931, 42nd Leg., p. 844, ch. 354.]

Effective May 21, 1931.

Section 7 of act 1931 declared an emer-

gency and provided that the Act should take effect from and after its passage.

2. COUNTY ATTORNEYS

Art. 329. 346, 280, 245 Election

Certain county attorneys designated as criminal district attorneys, see article 326k—11.

TITLE 16—BANKS AND BANKING

CHAPTER ONE—BANKING COMMISSIONER OF TEXAS

Art.

375d. Preservation of reports, correspondence, books, records and files; destruction or sale after prescribed period [New].

Art. 375d. Preservation of reports, correspondence, books, records and files; destruction or sale after prescribed period

The Banking Commissioner shall preserve all examiners' reports and all correspondence with State Banks and Banks and Trust Companies for a period of fifteen (15) years and shall preserve the books, records, and files of all insolvent banks for a period of one year after the approval of his final report, and shall, after the expiration of such time, destroy such reports, correspondence, books, records, and files, provided, however, that the Banking Commissioner may, in his discretion, sell the books, records, and files of any insolvent bank, if he can find a purchaser for same, and shall deposit the proceeds of such sale in the office expense account of the Liquidating Division of the State Banking Department and shall use the proceeds of such sale in defraying expense of operation of the Liquidating Division of the State Banking Department. Acts 1941, 47th Leg., p. 665, ch. 406, § 1.

Approved and effective May 31, 1941.

Section 2 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the preservation of Bank Examiners' reports and corre-

spondence files and for the preservation of the books, records, and files of insolvent banks, and further providing for the destruction of such reports and correspondence and sale or destruction of such books, records, and files of insolvent banks, and declaring an emergency. Acts 1941, 47th Leg., p. 665, ch. 406.

CHAPTER TWO—INCORPORATION

Art. 381a. Amendment of charter

Sec. 1. That hereafter any State Bank or State Bank and Trust Company may amend its charter to increase or decrease its capital stock, to change its name, to adopt trust company powers, and for any other lawful purpose. Such amendment shall be in force and take effect when adopted by a vote of the stockholders holding two-thirds interest of the capital stock, and approved by the Banking Commissioner of Texas and filed in the archives of his office. Stockholders shall be given notice of the intention to make such amendments by publication for not less than four (4) consecutive weeks in a newspaper published in the town or county where the bank is located, and also by notice mailed to each stockholder not less than thirty (30) days next preceding the date of the stockholders meeting.

Sec. 2. Provided further, that any such State Bank or State Bank and Trust Company or any other corporation subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, may, under the provisions of this Act, amend its charter so as to extend its corporate existence for a period of not exceeding fifty (50) years from the effective date of such amendment.

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

Sec. 3. Further provided that any corporation heretofore incorporated under the provisions of Chapter 9, Title 16, of the Revised Civil Statutes of Texas, 1925, which has heretofore adopted depository powers as provided for under Senate Bill No. 268, Acts of the Forty-sixth Legislature, Regular Session, 1939,¹ and any corporation which may be hereafter incorporated under the provisions of said Chapter as thus amended may, by complying with the provisions of this Act, amend its charter in such manner as to adopt the powers of a commercial bank or bank and trust company; provided further, however, that such amendment shall not be effective until approved by resolution of the State Banking Board. In considering such an amendment, the State Banking Board shall be guided by the same rules and considerations as would guide and determine such Board in passing upon an original application for a charter of a bank incorporated under the provisions of Chapter 2, Title 16, of the Revised Civil Statutes of Texas, 1925. As amended Acts 1941, 47th Leg., p. 702, ch. 437, § 1.

¹ Articles 545, § 2; 548a.

Approved and effective May 27, 1941.

Section 2 of Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

CHAPTER THREE—BANKS

Art. 392. 376 Powers of corporation

Banking Corporations shall be authorized to conduct the business of receiving money on deposit, allowing interest thereon, and of buying and selling exchange, gold and silver coins of all kinds; of lending money upon real estate and personal property and upon collateral and personal securities at a rate of interest not exceeding that allowed by law; of buying and selling certificates, securities, and shares insured by the Federal Savings and Loan Insurance Corporation; and of buying, selling, and discounting negotiable and non-negotiable commercial paper of all kinds. No such bank shall lend more than fifty (50) per cent of its securities upon real estate, nor make a loan on real estate to any amount greater than half the reasonable cash value thereof; provided that the restrictions as to the amount a bank may invest in securities upon real estate and as to the value of such real estate as compared to the security of the loan shall not apply to mortgage loans which are insured by the Federal Housing Administration pursuant to the National Housing Act, as now or hereafter amended. As amended Acts 1941, 47th Leg., p. 229, ch. 159, § 1.

Approved April 22, 1941.

Effective April 22, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER EIGHT—GENERAL PROVISIONS

Art. 500. Repealed. Acts 1941, 47th Leg., p. 727, ch. 455, § 1. Eff. June 10, 1941

Art. 501. Repealed. Acts 1941, 47th Leg., p. 677, ch. 419, § 1. Eff. June 6, 1941

Art. 502. Change to national banking corporation; previous acts of conversion validated

If any banking corporation, banks and trust companies incorporated under the laws of the State of Texas wishes to convert such corporation into a national banking corporation, its officers shall give notices of said change by publication of its intention to make the same by four (4) insertions in some daily or weekly newspaper published in the town where it is domiciled or adjacent thereto, for at least thirty (30) days before making such change. Such notice shall state that said banking corporation is organized as a State banking corporation and that it intends to convert into a national banking corporation. Said corporation shall notify the Banking Commissioner of such proposed change under the seal of said bank at least thirty (30) days before said conversion shall be consummated. Such conversion shall be effected by the written consent or vote of the owners of not less than a majority of the stock of said corporation, and a statement of such conversion duly acknowledged by the officers of the corporation shall be recorded and filed in the same manner as provided for in the original articles of agreement.

Further provided that where any banking corporation organized under the laws of this State has heretofore undertaken to convert into a national banking corporation by taking the steps provided for under Article 502 of the Revised Civil Statutes of Texas, 1925, has actually engaged in business as a national banking corporation and been subjected to supervision as a national bank, such acts of conversion are hereby validated and ratified, and the Banking Commissioner, upon the filing of certified copies of such proceedings in the Banking Department, shall cancel the certificate of authority of such banking corporation to do business as a State banking corporation as of the date of such purported conversion, and shall advise the Secretary of State of such action. Such corporations so converted into national banking corporations shall be for all purposes and intents considered as national banking corporations at all times from and after the date of such purported conversion. As amended Acts 1941, 47th Leg., p. 664, ch. 405, § 1.

Approved and effective May 31, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 18—BILLS AND NOTES

Arts. 572–574. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 30, 93, Vernon's Texas Rules of Civil Procedure.

TITLE 19A—THE SECURITIES ACT

Art. 600a. The Securities Act

[Sales in violation of law voidable; action by purchaser; limitations]

Sec. 33a. Every sale or contract of sale of any security made in violation of any provision of this Chapter shall be voidable at the election of the purchaser, who shall be entitled to recover from the seller in an action at law, upon tender to the seller of the security sold, in proper form for transfer, together with the amount of all dividends, interest, and other income and distributions received by the purchaser from or upon such security, the full amount paid by such purchaser for such security, with interest from the date of purchase; provided that any action by a purchaser to enforce any right or liability based upon any sale made in violation of any provision of this Chapter or any Acts predecessor thereto or amendatory thereof or upon any misrepresentation made in connection with such sale, shall be commenced within two (2) years after the purchaser thereof has knowledge that such sale was made in violation of any provision of this Chapter or Acts predecessor thereto or amendatory thereof or upon a misrepresentation, or within two (2) years after such purchaser, by the exercise of ordinary care, should have discovered that such sale was made in violation of this Act or Acts predecessor thereto or amendatory thereof or upon a misrepresentation, and not thereafter; provided, however, that any existing cause of action so arising and not now barred by limitation may be commenced at any time prior to the expiration of four (4) months after the effective date of this Act. Added Acts 1941, 47th Leg., p. 593, ch. 363, § 1.

Approved and effective May 22, 1941.

Section 3 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

[Actions for commissions; allegations and proof of compliance]

Sec. 33b. No person or company shall bring or maintain any action in the courts of this State for the collection of a commission or compensation for services rendered in the sale or purchase of securities, as that term is herein defined, without alleging and proving that such person or company was duly licensed under the provisions hereof and the securities so sold or purchased were duly registered under the provisions hereof at the time the alleged cause of action arose, provided, however, that this Section or provision of this Act shall not apply to the exempt transactions set forth in Section 3 of this Act or to the sale and purchase of securities listed in Section 23 of this Act, when sold by a registered dealer. Added Acts 1941, 47th Leg., p. 593, ch. 363, § 2.

TITLE 20—BOARD OF CONTROL

CHAPTER SIX—DIVISION OF ESTIMATES AND APPROPRIATIONS

Art. 689a—9. County Budget; county judge as budget officer

Commissioners' court to set aside and budget road and bridge fund in certain counties, see article 1630a.

CHAPTER SEVEN-A—DIVISION OF CHILD WELFARE

Art. 695a. Creation of Child Welfare Division; Chief of Division; appointment and salary; assistants and salaries

Continuance of functions of County Child Welfare Boards under the Public Welfare Act of 1941, see article 695c, § 40.

CHAPTER EIGHT—DIVISION OF PUBLIC WELFARE

Art. 695c. Public Welfare Act of 1941; Definitions [New].

Art. 695d. Time limit for presentation of disbursing orders for relief issued before October, 1936 [New].

Art. 695c. Public Welfare Act of 1941; Definitions

Section 1. As used in this Act:

- (1) "State Board" means the State Board of Public Welfare.
- (2) "State Department" means the State Department of Public Welfare.
- (3) "Executive Director" means Executive Director of the State Department of Public Welfare.
- (4) "Public Welfare" means and includes all forms of public assistance and specific services provided for in this Act.
- (5) "Old Age Assistance" means money payments to needy aged individuals.
- (6) "Aid to Dependent Children" means money payments with respect to a needy dependent child or needy dependent children.
- (7) "Aid to the Blind" means money payments to blind individuals who are needy.
- (8) "Child Welfare Services" means services for children provided for in this Act.
- (9) "Applicant" means an individual who has applied for assistance under this Act.
- (10) "Recipient" means an individual who is receiving assistance under the provisions of this Act.

State Department of Public Welfare

Sec. 2. (1) There is hereby created a State Department of Public Welfare which shall consist of a State Board of Public Welfare, an Executive Director, and such other officers and employees as may be required to efficiently carry out the purposes of this Act. The State Board of Public Welfare shall be composed of three (3) members to be appointed by the Governor of the State of Texas with the advice and consent of the Senate on the basis of demonstrated interest in, and knowledge of, public welfare and who have had experience as an executive or admin-

istrator; the term of one member to expire January 20, 1943, the term of one member to expire January 20, 1945, and the term of one member to expire January 20, 1947; provided, however, that the present members of the State Board of Public Welfare who have previously been appointed by the Governor and confirmed by the Senate shall continue to hold office for the terms to which they have been appointed. The Governor shall designate which appointee he desires to fill each term and vacancies shall be filled for any unexpired term by appointment by the Governor with the advice and consent of the Senate. On January 20, 1943, and biennially thereafter, one member of said Board shall be appointed for a full term of six (6) years, and each member of said Board shall hold office until his successor has been appointed and has qualified by taking the oath of office. The State Board of Public Welfare shall have its office in Austin, Texas, in such building as shall be designated and approved by the State Board of Control.

(2) At the first meeting of the members of said Board, after their appointment and biennially thereafter upon the appointment of a new member thereof, one of the members thereof shall be elected Chairman to preside over all meetings of such Board, and two (2) members thereof shall constitute a quorum for the transaction of business.

(3) The members of the State Board of Public Welfare shall receive their actual expenses while engaged in the performance of their duties and a per diem of Ten Dollars (\$10) per day for not exceeding sixty (60) days for any fiscal year.

Executive Director of State Department; Qualifications; Appointment

Sec. 3. (1) The Board shall select and appoint, with the advice and consent of two thirds of the membership of the Senate, an Executive Director of the Department of Public Welfare, who shall be the executive and administrative officer of the State Department and shall discharge all administrative and executive functions of the State Department. Such person so selected and appointed shall be not less than thirty-five (35) years of age at the date of his appointment, and shall have been a resident citizen of the State of Texas for at least ten (10) years preceding the date of his appointment, and shall not have been an occupant of any elective State office at the time of his appointment, nor have occupied any elective State office during the six (6) months next preceding the date of his said appointment. He shall be a person of demonstrated executive ability and extensive experience in public welfare administration, or shall have had experience as an executive or administrator, and shall serve at the pleasure of the State Board. Provided, however, that the present Executive Director who has previously been appointed by the State Board and confirmed by the Senate shall continue to hold office for such period of time as may be determined by the State Board.

(2) The Board shall be responsible for the adoption of all policies, rules, and regulations for the government of the State Department of Public Welfare.

(3) The Board, its agents, representatives, and employees shall constitute the State Department of Public Welfare and whenever, by any of the provisions of this Act, or of any other Act, any right, power, or duty is imposed or conferred on the State Department of Public Welfare, the right, power, or duty so imposed or conferred shall be possessed and exercised by the Executive Director unless any such right, power, or duty is specifically delegated to the duly appointed agents or employees of such department, or any of them, by this Act or by an appropriate rule, regulation, or order of the State Board.

Duties and functions of State Department

Sec. 4. The State Department shall be charged with the administration of the welfare activities of the State as hereinafter provided. The State Department shall:

(1) Administer aid to needy dependent children, assistance to needy blind, and administer or supervise general relief;

(2) Administer or supervise all child welfare service, except as otherwise provided for by law;

(3) Administer assistance to the needy aged;

(4) Cooperate with the Federal Social Security Board, created under Title 7 of the Social Security Act enacted by the Seventy-fourth Congress and approved August 14, 1935,¹ and any amendment thereto, and with any other agency of the Federal Government in any reasonable manner which may be necessary to qualify for Federal Aid for assistance to persons who are entitled to assistance under the provisions of that Act, and in conformity with the provisions of this Act, including the making of such reports, in such forms and containing such information as the Federal Social Security Board or any other proper agency of the Federal Government may, from time to time, require, and comply with such requirements as such Board or agency may, from time to time, find necessary to assure the correctness and verifications of such reports;

(5) Assist other departments, agencies and institutions of the local State and Federal Governments, when so requested and cooperate with such agencies when expedient, in performing services in conformity with the purposes of this Act;

(6) Fix the fees to be paid to ophthalmologists or physicians skilled in treatment of diseases of the eye for the examination of applicants for, and recipients of, assistance as needy blind persons;

(7) Establish and provide such method of local administration as is deemed advisable, and provide such personnel as may be found necessary for carrying out in an economical way the administration of this Act; provided, however, that all employees of the Department shall have been residents of the State of Texas for a period of at least four (4) years next preceding their appointment. To serve in an advisory capacity to such local administrative units as may be established, there may be also established local advisory boards of public welfare, which boards shall be of such size, membership, and experience as may be determined by the Executive Director of the Department of Public Welfare to be essential for the accomplishment of the purposes of this Act not in conflict with or duplication of other laws on this subject;

(8) Carry on research and compile statistics relative to the entire Public Welfare Program throughout the State, including all phases of dependency, delinquency, and related problems, and develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to public welfare problems;

(9) Have authority, any provision of law to the contrary notwithstanding, to dismiss without notice any person employed in the administration of this Act upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled an "Act to prevent pernicious political activities" as amended² (U. S. C., Title 18, Section 61a) and that such violation warrants the removal of such person from his employment;

(10) Have authority to establish by rule and regulation a Merit System for persons employed by the State Department of Public Welfare in the administration of this Act; and shall provide by rule and regula-

tion for the proper operation and maintenance of such Merit System on the basis of efficiency and fitness, and may provide for the continuance in effect of any and all actions heretofore taken in pursuance of the purposes of this subsection. The State Department is empowered and authorized to adopt regulations that may be necessary to conform to the Federal Social Security Act approved March 14, 1935, as amended,³ and shall have the power and authority to provide for the maintenance of a Merit System in conjunction with any Merit System applicable to any other State agency or agencies operating under the said Social Security Act as amended.

The Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

It is further provided that if any Merit Council is set up under authority of this Act the members and the executive head thereof shall be appointed subject to the confirmation of two thirds of the Senate.

(11) The Council shall provide for a preference in every State Department in this State (under which the Council has supervision) to all honorably discharged soldiers, sailors, nurses, and marines from the army and navy of the United States in the late Spanish-American and Philippine Insurrection Wars and the late World War when the United States of America was engaged in war against the Imperial Government of Germany and its allies and who are and have been residents or citizens of the State of Texas for a period of ten (10) years and who are competent and fully qualified shall be entitled to preference in appointments and employment; provided further that they shall receive a credit of five (5) points to be added to their merit ratings.

¹ 42 U.S.C.A. §§ 901-904.

² 18 U.S.C.A. § 61 et seq.

³ 42 U.S.C.A. § 301 et seq.

Divisions in State Department

Sec. 5. There shall be created in the State Department of Public Welfare the following Divisions: a Division of Child Welfare, a Division of Audits and Accounts, a Division of Research and Statistics, and such other Divisions as the Executive Director may find necessary for effective administration. The Executive Director shall have the power to allocate and reallocate functions among the Divisions within the Department and have the power and authority, subject to classification, to select, appoint, and discharge such assistants, clerks, stenographers, auditors, bookkeepers, and clerical assistants as may be necessary in the administration of the duties imposed upon the State Department of Public Welfare within the limits of the appropriations that may be made for the work of said Department.

State Department as agency of state; social security

Sec. 6. The State Department is hereby designated as the State agency to cooperate with the Federal Government in the administration of the provisions of Title I,¹ Title IV,² Part 3 of Title V,³ and Title X,⁴ of the Federal Social Security Act and of the provisions of such other titles of the Federal Social Security Act as may be added thereto, from time to time, in the event no other State agency is by law designated to cooperate with the Federal Government in the administration of the provisions of such title, or titles, as may be added to the Social Security Act and the Department is directed to enact and promulgate such rules and regulations as may be necessary to effect the coopera-

tion as herein outlined and designated. The State Department is hereby authorized and directed to cooperate with the proper departments of the Federal Government and with all other departments of the State and local governments in the enforcement and administration of such provisions of the Federal Social Security Act and any amendments thereto and the rules and regulations issued thereunder, and in compliance therewith, in the manner prescribed in this Act or as otherwise provided by law.

¹ 42 U.S.C.A. §§ 301-306.

² 42 U.S.C.A. §§ 601-606.

³ 42 U.S.C.A. § 721.

⁴ 42 U.S.C.A. §§ 1201-1206.

State Department as agency of state; distribution of Federal surplus commodities and other Federal resources

Sec. 7. The State Department is hereby designated as the State agency to cooperate with the Federal Government in the proper administration and distribution of Federal surplus commodities and any other Federal resources now on hand and available, or that may be provided in the future. The State Department is hereby designated as the State agency to administer or supervise referrals and certifications to the Works Project Administration, the National Youth Administration and the Civilian Conservation Corps. The State Department may cooperate with any city or county in any manner deemed necessary for the proper operation of these programs.

State Department as agency of state; dependent children

Sec. 8. The State Department is hereby designated as the agency to cooperate with the Children's Bureau of the United States Department of Labor in:

(1) Establishing, extending, and strengthening, especially in predominantly rural areas, public welfare services for the protection and care of homeless, dependent, and neglected children in danger of becoming delinquent; and

(2) Developing State services for the encouragement and assistance of adequate methods of community child welfare organization and paying part of the cost of district, county or other local child welfare services in areas predominantly rural and in other areas of special need; and as may be determined by the rules and regulations of said State Department; and

(3) Developing such plans as may be found necessary to effectuate the services contemplated in this Section, and to comply with the rules and requirements of the Children's Bureau of the United States Department of Labor issued and prescribed in conformity with, and by virtue of the Federal Social Security Act as amended.¹

¹ 42 U.S.C.A. § 301 et seq.

Powers and functions not affected

Sec. 9. No provision of this Act shall in any manner interfere with the powers and functions of the Vocational Rehabilitation Division of the Department of Education, the State Commission for the Blind, or the Division of Maternal and Child Health of the State Health Department, or the Juvenile Boards of any of the counties authorized by Title 82, Revised Civil Statutes of Texas, as amended.¹

¹ Articles 5119 et seq.

Budget

Sec. 10. The Executive Director shall prepare and submit to the Board, for its approval, a biennial budget of all funds necessary to

be appropriated by the Legislature for the State Department for the purposes of this Act, including in such budget an estimate of all Federal funds which may be allotted to this State by the Federal Government for the purposes of the State Department. The budget so prepared shall by the State Board be submitted to and filed with the Board of Control in the form and manner and within the time prescribed by law.

Reports

Sec. 11. The Executive Director shall prepare annually a full report of the operation and administration of the State Department, together with such recommendations and suggestions as he may deem advisable, and such reports shall be submitted to the State Board not later than the first day of October of each year. The State Board, in turn, shall submit a report to the Governor and the Legislature.

Blind persons; assistance to

Sec. 12. Assistance shall be given under the provisions of this Act to any needy blind person who:

- (1) Is over the age of twenty-one (21) years; and
- (2) Whose vision, with correctional glasses, is insufficient for use in an occupation for which sight is essential; and
- (3) Who has resided in this State for five (5) years during the nine (9) years immediately preceding the date of application, and who has resided in this State continuously for one (1) year immediately preceding the date of application; and
- (4) Is not at the time of receiving such aid an inmate of any public institution; and
- (5) Who is not publicly soliciting alms in any part of this State. The term "publicly soliciting" shall be construed to mean the wearing, carrying, or exhibiting the signs denoting blindness, or the carrying of receptacles for the reception of alms, or the doing of the same by proxy, or be begging from house to house or on any public street, road, or thoroughfare within the State; and
- (6) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health; and
- (7) Who is a citizen of the United States.

Blind persons; exceptions to aid

Sec. 13. No aid to needy blind persons shall be given under the provisions of this Act to any individual for any period with respect to which he is receiving Old Age Assistance.

Blind persons; amount of assistance

Sec. 14. The amount of assistance which shall be given under the provisions of this Act to any individual as aid to the blind shall be determined by the State Department through its district or county agencies in the county or district in which the needy blind person resides with due consideration to the income and other resources of such blind person and in accordance with the rules and regulations of the State Department. The amount of assistance given shall provide such blind person with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may hereafter be provided.

Blind persons; application for assistance

Sec. 15. No application for assistance as a needy blind person shall be approved until the applicant shall have been examined by an

ophthalmologist or physician skilled in treatment of diseases of the eye and who is licensed to practice medicine in Texas, and who has been approved by the State Department to make such examination. The examining ophthalmologist or physician shall certify, in writing upon forms prescribed by the State Department, as to the cause, diagnosis, and prognosis, and shall make recommendations as to the medical and surgical treatment. The State Department shall adopt a reasonable fee schedule for such examinations. Such fees shall be paid out of the funds appropriated to the State Department for the purpose of assistance to needy blind persons under the provisions of this Act or for administrative expense.

Blind persons; reexamination of eyes; rules and regulations

Sec. 16. Every recipient of aid to the blind shall submit to a reexamination of his eyesight at least once every two (2) years, unless excused therefrom by the State Department. The State Department shall promulgate such rules and regulations stating in terms of ophthalmic measurements, the amount of visual acuity which an applicant or recipient may have and still be eligible for assistance under this Act.

Dependent children; assistance; eligibility

Sec. 17. Aid to dependent children shall be given under the provisions of this Act with respect to any dependent child. "Dependent Child" is any individual:

- (1) Who is a citizen of the United States; and
- (2) Who has resided in this State for a period of at least one (1) year immediately preceding the date of the application for assistance; or was born within the State one (1) year immediately preceding the date of application, and whose mother has resided in the State for a period of at least one (1) year immediately preceding the birth of such child; and
- (3) Who is under the age of fourteen (14) years; and
- (4) Who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent; and
- (5) Who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, step-sister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home; and
- (6) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.

Dependent children; amount of assistance

Sec. 18. The amount of assistance which shall be given under the provisions of this Act with respect to any needy dependent child shall be determined by the State Department through its district or county agencies in the district or county in which the dependent child resides with due consideration to the income and other resources of such child and in accordance with the rules and regulations of the State Department. The amount of assistance given shall provide such dependent child with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may hereafter be provided.

Dependent children; assistance when living with relatives

Sec. 19. When the investigation discloses that a child in whose behalf application for assistance has been made is a needy dependent

child as defined in this Act, and that such child is living, or will live, with one or more of the relatives prescribed in this Act, assistance may be allowed for the support of such child if other provisions of this Act are complied with.

Old age assistance; persons eligible

Sec. 20. Old Age Assistance shall be given under the provisions of this Act to any needy person:

- (1) Who has attained the age of sixty-five (65) years; and
- (2) Who is a citizen of the United States; and
- (3) Who has resided in the State of Texas for five (5) years or more within the last nine (9) years preceding the date of his application for assistance and has resided in the State of Texas continuously for one (1) year immediately preceding the application; and
- (4) Who is not at the time of receiving assistance an inmate of a public institution; and

(5) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with health and decency. Provided that in consideration of income and resources actually available to applicant the State Agency shall not evaluate income and resources which may be available only to relatives of applicant. Income and resources to be taken into consideration shall be known to exist and shall be available to the applicant. An applicant for old age assistance shall not be denied assistance because of the existence of a child or other relative, except husband or wife, who is able to contribute to the applicant's support, and no inquiry shall be made into the financial ability of said child or other relative, except husband or wife, in determining applicant's eligibility. The applicant's child or other relative, except husband or wife, is to be treated by the State Department in the same way as any person not related to the applicant; any aid or contributions to the applicant from such child or other relative, except husband or wife, must actually exist in fact, or with reasonable certainty, be available in the future to constitute a resource to the applicant.

(6) An applicant for old age assistance shall not be denied assistance because of the ownership of a resident homestead, as the term 'resident homestead' is defined in the Constitution and Laws of the State of Texas.

Old age assistance; amount of assistance

Sec. 21. The amount of assistance which shall be given under the provisions of this Act to any individual as old age assistance shall be determined by the State Department through its district or county agencies in the county or district in which the needy aged person resides with due consideration to the income and other resources of such aged person and in accordance with the rules and regulations of the State Department. A voluntary statement by any child or other relative, except husband or wife, as to the amount and kind of aid or assistance he is contributing or expects to contribute to an applicant for old age assistance shall be accepted by the State Department as prima facie evidence of the availability and amount of such contribution; provided, however, that actual contributions to the applicant must be considered by the State Department. The amount of assistance given shall provide such aged person with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may hereafter be provided.

Applications for assistance

Sec. 22. Application for old age assistance, aid to the blind, and aid to dependent children under the provisions of this Act shall be made in the manner and in the form prescribed by the rules and regulations of the State Department. Such application may contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which the applicant may have at the time of the filing of the application, and such other information as may be required by the State Department.

Investigations and determinations by State Department

Sec. 23. Whenever the State Department shall receive an application for old age assistance, aid to the blind or aid to dependent children as provided under this Act, the State Department shall:

(1) Make an investigation and record of the circumstances of the applicant in order to ascertain the facts supporting the application and to obtain such other information as it may require.

(2) After completion of its investigation, determine whether the applicant is eligible for assistance under the provisions of this Act, the type and amount of assistance, the date on which such assistance shall begin, and the manner in which payment shall be made. All applicants shall be promptly notified of the final action taken by the State Department.

Reinvestigations

Sec. 24. All assistance granted under the provisions of this Act to any needy aged person, needy blind person or with respect to any dependent child shall be reconsidered as frequently as may be required by the rules of the State Department. After such reconsideration as the State Department may deem necessary or may require, the amount of assistance may be changed, or the assistance may be entirely withdrawn if the State Department finds that the recipient's circumstances have altered sufficiently to warrant such action. The State Department may at any time cancel and revoke assistance or it may suspend assistance for such period as it may deem proper, upon the grounds of ineligibility of the recipient under the provisions of this Act. Whenever assistance is thus withdrawn, revoked, suspended, or in any way changed, the State Department shall at once notify the recipient of such decision. If at any time during the continuance of public assistance the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him, it shall be his duty to notify the State Department of this fact immediately on the receipt or possession of such additional income or resources.

Appeal to State Department from local unit

Sec. 25. (1) In the event that an application for public assistance by a needy blind person, a needy aged person, or with respect to a needy dependent child, is not acted upon by the local unit of administration within a reasonable time after the filing of such an application, or is denied in whole, or in part, or any award of assistance is modified or cancelled, or an applicant or recipient is dissatisfied with any action or failure to act on the part of the local administrative unit, the applicant or recipient shall have the right to appeal to the State Department and shall be granted a reasonable notice and opportunity for a fair hearing before the State Department.

(2) Within a reasonable time prior to an applicant's or recipient's appeal hearing he, or his authorized agent, shall be fully advised of

the information contained in his record on which action was based if a request for such information is made in writing, and no evidence of which the applicant or recipient is not informed shall be considered by the State Department as the basis for a decision after a hearing.

Method of assistance payments

Sec. 26. All assistance payments provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the proper accounts of a 'State Department of Public Welfare Fund'; for the purpose of permitting the State Comptroller to properly draw and issue such vouchers or warrants, the State Department of Public Welfare shall furnish the Comptroller with a list of or roll of those entitled to assistance from time to time, together with the amount to which each recipient is entitled. When such vouchers or warrants have been drawn they shall be delivered to the Executive Director of the State Department of Public Welfare, who in turn shall supervise the delivery of same to the persons entitled thereto.

Funds created; State Treasurer custodian

Sec. 27. (1) For the purposes of carrying out the provisions of this Act, the Old Age Assistance Fund, the Blind Assistance Fund, and the Children Assistance Fund as provided for in House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session,¹ are hereby made separate accounts of the "State Department of Public Welfare Fund" as created by this Act. Provided, that all moneys in the separate accounts of the State Department of Public Welfare Fund shall be expended only for the purposes of carrying out the provisions of this Act, and for the purposes for which said separate accounts were created or appropriated.

(2) The State Treasurer is hereby designated as the custodian of any and all money which may be received by the State of Texas (which the State Department of Public Welfare is authorized to administer), from any appropriations made by the Congress of the United States, for the purpose of cooperating with the several provisions of the Federal Social Security Act,² and all money received from any other source; and the State Treasurer is hereby authorized to receive such money, pay it into the proper fund or the proper account of the General Fund of the State Treasury, provide for the proper custody thereof, and to make disbursements therefrom upon the order of the State Department and upon warrant of the State Comptroller of Public Accounts.

¹ Article 7083a.

² 42 U.S.C.A. § 301 et seq.

Proration of assistance grants

Sec. 28. If at any time State Funds are not available to pay all grants of assistance in full as authorized in this Act, said grants shall be prorated as the State Board of Public Welfare may direct.

Non-transferability of assistance

Sec. 29. Old age assistance, aid to the blind or aid to dependent children as provided for under the provisions of this Act shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law; the provision of this Act provid-

ing for old age assistance, aid to the blind, and aid to dependent children shall not be construed as a vested right in the recipient of such assistance.

Unlawful acts; penalties

Sec. 30. Any person or persons charged with the duty or responsibility of administering, disbursing, auditing, or otherwise handling the grants, funds, or moneys, provided for in this Act, and who shall misappropriate any such grants, funds, or moneys or who shall by deception or fraud to any other person wrongfully distribute the grants, funds, or moneys provided for in this Act, shall be deemed guilty of a felony and shall, upon conviction, be confined in the State Penitentiary for a term of not less than two (2) nor more than seven (7) years.

Officers and employees of State Department; unlawful acts; penalty

Sec. 31. No officer or employee of the State Department shall use his official authority or influence or permit the use of the programs administered by the State Department for the purpose of interfering with an election or affecting the results thereof or for any political purpose. No such officer or employee shall take any active part in political management or in political campaign or participate in any political activity, except that he shall retain the right to vote as he may please and express his opinion as a citizen on all political subjects. No such officer or employee shall solicit or receive, nor shall any such officer or employee be obliged to contribute or render, any service, assistance, subscriptions, assessments, or contributions for any political purpose. Any officer or employee of the State Department violating this Section shall be subject to discharge or suspension or such other disciplinary measures as may be provided by the rules and regulations of the State Department.

Attorneys fees

Sec. 32. It shall be unlawful for any attorney at law, or attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant or recipient of assistance to the aged, to the needy blind, or to any needy dependent child, or for any child welfare service with respect to any application before the State Department, or any of its agents, to charge a fee for his services in excess of Ten Dollars (\$10) in aiding or representing any such applicant before the State Department, or for any other service in aiding such applicant to secure assistance or service. It shall likewise be unlawful for any person, firm or corporation, to advertise, hold himself out for or solicit the procurement of assistance or service.

Disclosure of information prohibited; names of recipients

Sec. 33. (1) It shall be unlawful, except for purposes directly connected with the administration of general assistance, old age assistance, aid to the blind, or aid to dependent children, and in accordance with the rules and regulations of the State Department, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of, or names of, or any information concerning, persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files, or communications of the State Department or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

(2) The rule-making power of the State Department shall include the power to establish and enforce reasonable rules and regu-

lations governing the custody, use, and preservation of the records, papers, files, and communications of the State Department and its local offices. Wherever, under provisions of law, names and addresses of recipients of public assistance are furnished to or held by any other agency or department of government, such agency or department of government shall be required to adopt regulations necessary to prevent the publication of lists thereof or their use for purposes not directly connected with the administration of public assistance.

Fraudulent assistance; penalty

Sec. 34. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a wilfully false statement or representation or by impersonation, or by other fraudulent means:

(1) Assistance, services, or treatment to which he is not entitled;

(2) Assistance, services, or treatment greater than that to which he is justly entitled;

(3) Or, with intent to defraud, aids or abets in buying, or in any way disposing of the property of a recipient of assistance without the consent of the State Department, or whoever violates Section 32 or Section 33 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not more than One Hundred Dollars (\$100) or be imprisoned for not less than six (6) months, nor more than two (2) years, or be both so fined and imprisoned.

Purpose of act; construction

Sec. 35. The purpose of this Act is to inaugurate a program of social security and to provide necessary and prompt assistance to the citizens of this State who are entitled to avail themselves of its provisions. This Act shall be liberally construed in order that its purposes may be accomplished as equitably, economically, and expeditiously as possible.

Assistance grants subject to repeal, etc.

Sec. 36. All assistance granted under the provisions of this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claims for compensation or otherwise by reason of his assistance being affected in any way by any amending or repealing Act.

Oaths and acknowledgments

Sec. 37. The local representatives of the Department, who are charged with the duty of investigating and determining the eligibility of applicants for assistance under the provisions of this Act, are authorized to administer oaths and take acknowledgments concerning all matters relating to the administration of this Act. No seal shall be required of such representatives of the Department in attesting to oaths administered or acknowledgments taken, but said representatives shall officially sign said oaths or acknowledgments, showing with such signature their position and title. In this connection, these local representatives of the Department, for the purposes of the administration of this Act, shall have the same authority as is now had by Notaries Public coextensive with the limits of the State of Texas.

Saving clause

Sec. 38. None of the provisions of this Act shall change, amend, alter or impair any of the provisions of House Bill No. 1059, Acts of the Forty-seventh Legislature, Regular Session.¹

¹ See note at end of this article.

Responsibility of counties and municipalities not affected

Sec. 39. No provision of this Act is intended to release the counties and municipalities in this State from the specific responsibility which is currently borne by those counties and municipalities in support of public welfare, child welfare, and relief services. Such funds which may hereafter be appropriated by the counties and municipalities for those services may be administered through the county or district offices of the State Department, and if so administered, shall be devoted exclusively to the services in the county or municipality making such appropriation.

County Child Welfare Boards continued

Sec. 40. County Child Welfare Boards established or hereinafter appointed in conformity with Section 4, Acts of 1931, Forty-second Legislature, page 323, Chapter 194,¹ shall function and/or continue to function as provided therein, and the Commissioners Court of any county may appropriate funds from its general funds, or any other available fund, for the administration of such County Child Welfare Boards and provide for services to and support of children in need of protection and/or care.

¹ Article 695a, § 4.

Recipient moving out of state

Sec. 41. Any person who is receiving assistance under the provisions of this Act and who moves out of and does not reside in the State shall, by virtue of that fact, be deemed ineligible to receive assistance in this State except that temporary absence from the State for such periods of time, and for such reasons as the State Department shall approve, shall not be deemed to interrupt the residence of the recipient.

Persons attaining age 65; other public relief

Sec. 42. No person, who has attained the age of sixty-five (65), and who is not receiving old age assistance, shall by reason of his age, be barred from receiving other public relief and care.

Short title

Sec. 43. This Act shall be known and may be cited as "The Public Welfare Act of 1941."

Repeals

Sec. 44. Article II of House Bill No. 8, Acts, Forty-fourth Legislature, Third Called Session,¹ is hereby repealed.

Sec. 45. House Bill No. 26, Acts, Forty-fourth Legislature, Second Called Session,² is hereby repealed.

Sec. 46. Senate Bill No. 9, Acts, Forty-sixth Legislature, Regular Session,³ is hereby repealed.

¹ Articles 6243-3 to 6243-21, Vernon's Rev. Pen. Code, art. 427e.

² Article 6243-1, Vernon's Rev. Pen. Code, art. 427d.

³ Articles 6243-5, 6243-6.

Partial invalidity; severability of act

Sec. 47. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act or the application thereof to any person or circumstances is held invalid, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. As amended Acts 1941, 47th Leg., p. 914, ch. 562, § 1.

Approved and effective July 2, 1941.

Section 2 of Acts 1941, 47th Leg., p. 914, ch. 562 declared an emergency and provided that the Act should take effect from and after its passage.

Section 40 of Acts 1939, 46th Leg., p. 544, prior to amendment and re-enactment of the entire act by Acts 1941, 47th Leg., p. 914, ch. 562, § 1, effective July 2, 1941, was amended by Acts 1941, 47th Leg., p.

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

815, ch. 505, § 1, effective June 14, 1941, to read as follows: "It is provided that grants of aid and assistance may be made to any needy blind person found to be eligible for such aid under the provisions of this Act immediately upon the allocation of funds to the 'Blind Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a]; and that grants of aid and assistance may be made for destitute and dependent children found to be eligible under the provisions of this Act immediately upon the allocation of funds to the 'Children Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a]. To put these provisions into effect, there are hereby appropriated all funds allocated to said 'Blind Assistance Fund' for the purpose of providing and administering assistance to the needy blind under the provisions of this Act; and, there are hereby appropriated all funds allocated to said 'Children Assistance Fund' for the purpose of providing and administering assistance to dependent and destitute children under the provisions of this Act. The State Department is hereby authorized and directed to integrate the administration of aid to the blind and aid for dependent children with all other programs and activities of the department in such manner as is necessary for proper, economical, and efficient administration."

Sections 2 and 3 of Acts 1941, 47th Leg. p. 815, ch. 505, made appropriations as follows:

"Sec. 2. There is hereby appropriated from the 'Blind Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a], the sum of Twenty-five Thousand Dollars (\$25,000), or so much thereof as may be necessary, for the four-month period from May 1, 1941, to August 31, 1941, to be used by the State Department of Public Welfare to pay the expense of employing personnel, supplies,

forms, postage, printing, or any other necessary expense in beginning operations and administering aid to needy blind persons as provided in Senate Bill No. 36, Acts of the Forty-sixth Legislature, Regular Session [this article]. In the event the above appropriation of Twenty-five Thousand Dollars (\$25,000) is insufficient to pay for medical examinations by ophthalmologists or physicians skilled in treatment of diseases of the eye as required by law of all applicants for blind assistance, then in that event, there is hereby appropriated, in addition to the above appropriation, from the 'Blind Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a] whatever sum that is necessary to pay for such medical examinations.

"Sec. 3. There is hereby appropriated from the 'Children Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a], the sum of Fifty Thousand Dollars (\$50,000), or so much thereof as may be necessary, for the four-month period from May 1, 1941, to August 31, 1941, to be used by the State Department of Public Welfare to pay the expense of employing personnel, supplies, forms, postage, printing or any other necessary expense in beginning operations and administering aid for dependent or destitute children as provided in Senate Bill No. 36, Acts of the Forty-sixth Legislature, Regular Session [this article]. In the event the above appropriation of Fifty Thousand Dollars (\$50,000) is insufficient to pay for required medical examinations for destitute children of parents apparently physically or mentally incapacitated, then in that event, there is hereby appropriated, in addition to the above appropriation, from the 'Children Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [article 7083a], whatever sum that is necessary to pay for such medical examinations."

Art. 695d. Time limit for presentation of disbursing orders for relief issued before October, 1936

Section 1. Any person having a claim against the State of Texas based on any disbursing order issued for general or transient relief purposes by the Texas Relief Commission or The Texas Relief Commission Division of the State Board of Control, or any of their authorized representatives, agents or employees, prior to October, 1936, shall, within six (6) months from the effective date of this Act, present the same to the State Department of Public Welfare for approval and payment, and failure to do so shall forever bar any claim based thereon against the State of Texas.

Sec. 2. Any person to whom a check was issued by the Texas Relief Commission or the Texas Relief Commission Division of the State Board of Control, or any of their authorized representatives, agents or employees, prior to July 1, 1936, for relief purposes, or his heirs, assigns

or legal representatives, shall present the same to the State Department of Public Welfare for approval and payment within six (6) months from the effective date of this Act, and failure to do so shall forever bar any claim against the State of Texas evidenced by said check or upon the claim to satisfy which said check was given. Acts 1941, 47th Leg., p. 798, ch. 496.

Approved June 14, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.
Title of Act:

An Act fixing a time within which any person having a claim against the State of Texas based on any disbursing order issued, prior to October, 1936, for general or transient relief purposes, by the Texas Relief Commission or the Texas Relief Commission Division of the State Board of Control, or any of their authorized representatives, agents, or employees, shall present the same to the State Department of Public Welfare for approval

and payment, or such claim shall be forever barred; fixing a time within which any person, his heirs, assigns or legal representatives, to whom a check was issued, prior to July 1, 1936, for relief purposes by the Texas Relief Commission or The Texas Relief Division of the State Board of Control, or any of their authorized representatives, agents or employees, may present the same for approval and payment to the State Department of Public Welfare, and failure to do so shall forever bar any claim against the State of Texas evidenced by said check or upon the claim to satisfy which said check was given; and declaring an emergency. Acts 1941, 47th Leg., p. 798, ch. 496.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

Art.

717a—1. Refunding indebtedness of counties of 100,000 or more; taxes; sinking fund [New].

Art. 709. 619, 918d Examination of bonds, etc.

Refunding bonds by certain cities owning waterworks or sewer systems, approval, see articles 802b—2, 1118n—3, § 4. Refunding bonds of certain cities operating utilities, approval, see article 802c.

Art. 717a—1. Refunding indebtedness of counties of 100,000 or more; taxes; sinking fund

Section 1. That the Commissioners Court of any county in this State, having a population of one hundred thousand (100,000) inhabitants, or more, according to the last preceding Federal Census, shall have the power to issue bonds for the purpose of refunding any and all outstanding indebtedness of such county, chargeable against the General Fund which existed on April 30, 1941. Items of indebtedness as of said date, in the form of scrip or time warrants, either or both, may be included in such refunding bond issue. Such refunding bonds may be issued by the Court payable serially, or otherwise, within a period of time not exceeding thirty (30) years as the Court may direct, and shall bear interest at a rate not to exceed five (5) per centum per annum, interest payable annually or semiannually as may be determined by the Court; provided, however, that the amount of bonds issued under this Act shall never reach an amount where a tax of Five (5) Cents on the one hundred dollars valuation of property will not pay current interest and provide a sinking fund sufficient to redeem them at maturity; and, provided further, that said refunding bonds shall have been first authorized by a majority vote cast by the duly qualified property taxpaying voters voting at an election held for that purpose.

Sec. 2. That said Commissioners Courts are further authorized and empowered to levy (within the maximum rate hereinabove prescribed) a tax upon all real and personal property situated in such county, out of the tax of Twenty-five (25) Cents authorized for county purposes by Section 9 of Article 8 of the Constitution of Texas, sufficient to pay the principal of and interest on such bonds, if voted or authorized as herein provided, and no bonds shall be issued under this Act until a tax levy, as herein provided, shall have been made, and when said levy shall have been so made, the same shall continue in force until the whole amount of the principal of and interest on such bonds shall have been fully paid.

Sec. 3. The general laws relative to county refunding bonds, not in conflict with the provisions of this Act, shall apply to the issuance, approval, and certification, and the registration of the bonds provided for in this Act.

Sec. 4. If any section, clause, or phrase of this Act is held to be unconstitutional, such decision shall not affect the remaining portion of this Act. Acts 1941, 47th Leg., p. 793, ch. 492.

Approved and effective June 13, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Court of any county having a population of one hundred thousand (100,000) inhabitants, or more, according to the last

preceding Federal Census, to issue bonds for the purpose of refunding any and all outstanding indebtedness of such county chargeable against the General Fund which existed on April 30, 1941; providing that items of indebtedness as of said date, in the form of scrip or time warrants, either or both, may be included in such refunding bond issue; providing that such refunding bonds shall be first authorized by a majority vote cast by the duly qualified property taxpaying voters voting at an election held for that purpose; authorizing the levy of a tax to pay principal and interest on such bonds, and providing that the amount of bonds issued under this Act shall never reach an

amount where a tax of Five (5) Cents on the one hundred dollars valuation will not pay current interest and provide a sinking fund sufficient to redeem them at maturity; providing that the general laws relative to county refunding bonds, not in conflict herewith, shall apply to the issuance, approval, and certification, and registration of the bonds provided for in this Act; providing that if any section, clause, or phrase of this Act be held unconstitutional, such decision shall not affect the remaining portion of this Act; enacting provisions incident and relating to the subject and purpose of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 793, ch. 492.

CHAPTER THREE—PUBLIC ROAD BONDS

1. COUNTY AND DISTRICT BONDS

Art.

752c—1. Abolishment of dormant road districts [New].

1. COUNTY AND DISTRICT BONDS

Art. 752a. Power to issue road bonds

Abolishment of road district when its bonds have been exchanged for county bonds under this act, see article 752c—1.

Art. 752c—1. Abolishment of dormant road districts

That when any road district in any county in this State shall have paid off and discharged all of the bonds issued and sold by said road district, or when an election to issue bonds in such road district shall have failed by a vote of the people and such road district has issued no bonds, and no further election has been held in such road district for a period of one year from date of its creation, or when the bonds issued by such road district have been assumed and exchanged for county bonds under the Compensation Bond Statutes, Chapter 16, page 23, General Laws, Thirty-ninth Legislature, First Called Session, 1926,¹ and in the opinion of the Commissioners Court of such county such road district has become dormant and there exists no further necessity for such road district, the Commissioners Court of any county is hereby authorized by an order duly passed abolishing such road district, to abolish such road district, and it shall thereafter cease to exist. Acts 1941, 47th Leg., p. 206, ch. 147, § 1.

¹ Articles 752a-752w, 767a-767d.

Approved April 15, 1941.

Effective April 15, 1941.

Section 2 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide that the Commissioners Court of any county in the State may abolish dormant road districts which have paid off and discharged all of the bonds is-

sued and sold by said road district, or when an election in such created road district for issuance of bonds shall have failed, or when the bonds issued by such road district have been assumed and exchanged for county bonds under the Compensation Bond Statutes, Chapter 16, page 23, General Laws, Thirty-ninth Legislature, First Called Session, 1926; and declaring an emergency. Acts 1941, 47th Leg., p. 206, ch. 147.

2. COMPENSATION BONDS

Art. 767a. Compensation bond issue

Abolishment of road district when its bonds have been exchanged for county bonds under this act, see article 752c—1.

4. GENERAL PROVISIONS

Art. 779. Investment of Sinking Fund

The Commissioners Courts may invest sinking funds accumulated for the redemption and payment of any bonds issued by such county, political subdivision, road district, or defined district thereof, in bonds of the United States, of Texas, or any county in this State, or any school district or road district of this State, or any incorporated city or town of this State; or in bonds of the Federal Farm Loan Bank system, or in war-savings certificates, and certificates of indebtedness issued by the Secretary of the Treasury of the United States. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created. As amended Acts 1941, 47th Leg., p. 899, ch. 552, § 1.

Approved and effective June 30, 1941.
 Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws.

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER FOUR—VIADUCTS, BRIDGES, ETC.

Art. 795. 652 Rules and regulations

Acts 1934, 43rd Leg., 4th C.S., p. 78, ch. 32, set out in the note under this article,

was repealed by Acts 1941, 47th Leg., p. 822, ch. 509, § 10.

CHAPTER FIVE—FUNDING, REFUNDING AND COMPROMISES

Art.

- 802b—2. Refunding bonds supported by ad valorem tax or by pledge of income of specified utilities; issuance by cities operating under charters authorized [New].
- 802b—3. Cities of 35,000 to 45,000 under Special or Home Rule Charters may issue notes to fund or refund warrants [New].

Art.

- 802b—4. Exposition and Convention Hall or Coliseum bonds, refunding; cities over 100,000 [New].
- 802c. Refunding bonds of certain cities operating utilities [New].
- 802d. Refunding bonds of cities whose streets link state highways [New].

Art. 802b—2. Refunding bonds supported by ad valorem tax or by pledge of income of specified utilities; issuance by cities operating under charters authorized

Section 1. This Act shall be applicable to any city operating under a charter either adopted or amended by vote of the people which owns and operates its waterworks and sanitary sewer systems, and the principal amount of whose bond and time warrant indebtedness is in an aggregate amount exceeding forty (40) per cent of the assessed valuation of the property in such city according to the latest approved official tax

rolls. Any such city, for the purposes of this Act, shall be an eligible city.

Sec. 2. Any eligible city is authorized to issue refunding bonds of two classes. One class of its refunding bonds, which may be in one or more series, shall not be supported by an ad valorem tax but by a pledge to the payment of the principal and interest thereof of all or a stipulated part of the net income from the operation of its waterworks system or its sewer system, or both, and by a deed of trust or a mortgage upon such systems, and by a grant to the purchaser, under sale or foreclosure thereunder, a franchise to operate the systems and property so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. The other class, which may be in one or more series, shall be supported by an ad valorem tax levied at a rate or in an amount sufficient to pay the interest thereon and the principal at maturity. Such city shall designate the several issues or parts of issues of outstanding bonds or time warrants, or both, eligible to be refunded by the issuance of the respective classes of its refunding bonds, provided, however, that bonds and warrants which were issued for waterworks or sewer purposes shall be refunded into the class which is secured by the revenues from, and deed of trust or mortgage upon such systems, and all other bonds and warrants shall be refunded in the class of bonds payable from ad valorem taxes. No such city shall be authorized to exercise the additional powers conferred by this Act unless it obtains a reduction in the principal amount of its indebtedness to the extent of not less than fifteen (15) per cent, and unless it obtains a reduction in the average interest rate of its refunded indebtedness so that the average interest rate borne by its two classes of refunding bonds shall be not more than three (3) per cent per annum. Such city shall not be permitted to deliver refunding bonds of said two classes unless and until it shall have obtained consent to such refunding by the holders of at least sixty-six and two-thirds ($66 \frac{2}{3}$) per cent of aggregate principal amount of its outstanding indebtedness, which sixty-six and two-thirds ($66 \frac{2}{3}$) per cent shall include not less than one hundred (100) per cent of the revenue bonds outstanding against said system or systems, or unless such refinancing plan shall have been made effective in composition proceedings instituted by such city under Title 11, Chapter 9, of the United States Code and amendments thereto.¹

Before any income from such utility or utilities shall be used to pay the principal and interest of said refunding bonds, the expenses of operation and maintenance shall have first been provided substantially in accordance with the provisions of Article 1113 of the Revised Civil Statutes of Texas of 1925, as amended, which is applicable to the income of an encumbered utility system or encumbered utility systems. When such city issues refunding bonds under the provisions of this law, it shall be the duty of the city, after making said pledge of such utility income, to establish and maintain utility rates adequate to yield revenues sufficient to operate and maintain said utility system or systems and to fulfill the city's pledge of such income.

Sec. 3. Such city also shall refund, par for par, all of its outstanding revenue bonds which are secured by a pledge of the revenues of either or both of such systems, and bonds issued to refund such revenue bonds may be included in any refunding issues under the class secured by the pledge of utility revenues authorized by this Act.

Sec. 4. The refunding bonds issued under this Act shall be fully negotiable and shall be issued in the same manner as refunding bonds for the purpose of taking up outstanding bonds issued under the provi-

sions of Title 22 and Title 28 of the 1925 Revised Civil Statutes of Texas and amendments thereto; no notice of intention to issue refunding bonds and no election for the issuance of such bonds shall be required. No such refunding bonds shall be registered in the office of the Comptroller and delivered by him unless and until he shall have received and cancelled in lieu thereof bonds or time warrants in the proportion prescribed in the ordinances authorizing the issuance of such refunding bonds, and in accordance with this Act. The procedure prescribed in Articles 709 to 715 of the Revised Civil Statutes of Texas, 1925, in reference to examination and approval of the bonds by the Attorney General, their registration by the Comptroller, and the effect of approval by the Attorney General shall be applicable to bonds issued under this law.

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail. Acts 1941, 47th Leg., p. 43, ch. 32.

1 11 U.S.C.A. §§ 401-404.

Filed without Governor's signature March 4, 1941.

Effective March 12, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Cities operating under general law and owning waterworks or sewer system, refunding bonds, see article 1118n—3.

Title of Act:

An Act authorizing eligible cities as defined herein to issue two classes of refunding bonds; providing the methods of paying and securing such bonds; enacting other provisions relating to the subject; making this Act cumulative of other laws; providing that it shall take precedence over other laws, general or special, and all charter provisions in conflict or inconsistent herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 43, ch. 32.

Art. 802b—3. Cities of 35,000 to 45,000 under Special or Home Rule Charters may issue notes to fund or refund warrants

Section 1. All cities in this State, operating under a Special or Home Rule Charter and having a population of not less than thirty-five thousand (35,000) nor more than forty-five thousand (45,000), according to the last preceding Federal Census, are hereby authorized and empowered to issue notes for the purpose of funding or refunding outstanding and unpaid warrants drawn against the General Fund for general operating expenses, subject to the limitations and provisions contained hereinafter in this Act.

Sec. 2. Before any city of the classification prescribed in Section 1 hereof may avail itself of the provisions of said Section, the governing body of such city shall order an election on the question of whether or not the governing body shall be authorized to issue notes for the purpose of funding or refunding outstanding and unpaid warrants drawn against its General Fund. Such election shall be held, and notice thereof given, and the results thereof declared, in the same manner as prescribed by General Law on the question of the issuance of municipal bonds. Only qualified electors, who own taxable property in such city and who have duly rendered same for taxation, shall be allowed to vote at such election.

Sec. 3. In the event such election results favorably to the issuance of such notes, the governing body of such city shall have the authority to pass all appropriate ordinances and resolutions to effect their issuance. The notes so authorized shall mature serially over a period not

exceeding ten years from their date, and may bear interest not exceeding five (5) per cent per annum and may be redeemable at the pleasure of the governing body. The full faith and credit of such city may be pledged to the payment of such notes and the interest thereon. Provided, however, that only such general fund warrants issued during the calendar year prior to the calendar year in which such funding or refunding operation is performed may be funded or refunded by the issuance of such notes; and provided further, that all warrants drawn against the General Fund during the calendar year in which such funding or refunding operation takes place and all warrants drawn against the General Fund in subsequent years in which such funding or refunding takes place shall be paid out of current funds appropriated for that purpose and shall never be funded or refunded. Acts 1941, 47th Leg., p. 163, ch. 120.

Filed without the Governor's signature, April 12, 1941.

Effective April 24, 1941.

Section 4 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing cities operating under a Special or Home Rule Charter and having a population of not less than thirty-five thousand (35,000) nor more than forty-five thousand (45,000), according to the last preceding Federal Census, to issue notes for the purpose of funding or refunding outstanding and unpaid warrants, drawn against the General Fund for operating expenses; requiring that the issuance of all of such notes shall be authorized by a vote of the qualified property taxpaying voters of such city voting at an election held for that purpose; prescrib-

ing the rate of interest such notes shall bear and the maturities thereof; providing that the full faith and credit of such city may be pledged to the payment of such notes and the interest thereon; provided, however, that only such general fund warrants issued during the calendar year prior to the calendar year in which such funding or refunding operation is performed may be funded or refunded by the issuance of such notes; and provided further that all warrants drawn against the General Fund during the calendar year in which such funding or refunding operation takes place and all warrants drawn against the General Fund in subsequent years in which such funding or refunding takes place shall be paid out of current funds appropriated for that purpose and shall never be funded or refunded; and declaring an emergency. Acts 1941, 47th Leg., p. 163, ch. 120.

Art. 802b—4. Exposition and Convention Hall or Coliseum bonds, refunding; cities over 100,000

Section 1. This Act shall be applicable to any city of over one hundred thousand (100,000) population according to the last preceding Federal Census, which owns and operates an Exposition and Convention Hall or Coliseum against which there are outstanding revenue bonds issued for the construction thereof, and which owns and operates an unencumbered natural gas distribution system which serves the inhabitants of all or a part of such city. Any such city, for the purposes of this Act, shall be an "eligible" city.

Any eligible city is authorized, without an election and without notice of intention to issue such bonds, to issue refunding bonds for the purpose of taking up and in lieu of its outstanding revenue bonds issued for the purpose of financing the construction of its Exposition and Convention Hall or Coliseum, and may secure said refunding bonds by a pledge of the net revenues from the operation of such Exposition and Convention Hall or Coliseum, and by the net revenues from the operation of its natural gas distribution system; provided that the revenues from its natural gas distribution system shall not be pledged as security for such refunding bonds unless such refunding bonds are issued to bear an interest rate lower than the rate borne by said outstanding revenue bonds.

Sec. 2. The bonds issued under this Act shall mature serially within a period of time not exceeding thirty (30) years from their date. The governing body of such city shall prescribe the interest rates, maturities and any options of redemption prior to maturity of such bonds. Such bonds which constitute special obligations of the issuing city, shall never be considered indebtedness of such city or town, but solely a charge upon the revenues pledged for the payment of such bonds, and shall never be reckoned in determining the power of such city to issue tax supported bonds for any purpose authorized by law.

Sec. 3. Whenever the income of such Exposition and Convention Hall or Coliseum and of such natural gas distribution system shall be encumbered as authorized in this Act it shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged. The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered Exposition and Convention Hall or Coliseum shall constitute "net revenues." The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered natural gas distribution system shall constitute "net revenues." The ordinance authorizing such revenue bonds shall prescribe the conditions under which such revenues may be used to pay depreciation, replacement, improvement and necessary expansion charges. It shall be the duty of any city issuing bonds under the provision of this Act to fix and maintain rates, rentals, and charges in the instance of each such encumbered property to assure receipt of income sufficient to pay reasonable operating, maintenance, improvement, necessary expansion and repair charges in connection with the proper operation of such property and to assure net revenues from the property or properties encumbered sufficient to pay the principal and interest of such bonds according to their tenor and effect, and to establish and maintain a reasonable reserve in the interest and sinking fund to be provided for such bonds. The requirement for a "reasonable reserve" shall be satisfied by establishing and maintaining in the Interest and Sinking Fund, in addition to requirements for a given calendar year, money sufficient to pay the principal and interest scheduled to mature and accrue during the succeeding calendar year. After such reserve account shall have been established and so long as it shall remain intact and while there are no delinquencies of principal or interest on any of the outstanding bonds, such city may use the pledged revenues in excess of such requirements for any other lawful purpose. The pledging of the revenues as authorized herein shall not constitute a lien on the physical properties of the Exposition and Convention Hall or Coliseum or of the Natural Gas Distribution System.

Sec. 4. Every contract and bond, or other evidence of indebtedness, issued pursuant to this Act shall contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." It shall be the duty of the officials of any such city to file with the Attorney General of the State of Texas a proper transcript of proceedings authorizing the issuance of such refunding bonds and evidencing the pledge of revenues from which the principal and interest of said bonds are to be paid, and to deliver to the Attorney General the executed refunding bonds. It shall be the duty of the Attorney General

to approve such record and said bonds when issued in accordance with this law.

Sec. 5. After said bonds have been examined and approved by the Attorney General they shall be registered by the Comptroller and delivered in exchange for a like principal amount of said original revenue bonds. After receiving the approval by the Attorney General and having been registered in the office of the Comptroller of Public Accounts, said bonds shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds the certificate of approval by the Attorney General or a duly certified copy thereof shall be received in evidence of the validity of such bonds. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Sec. 6. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over any such conflicting or inconsistent provisions. Acts 1941, 47th Leg., p. 652, ch. 395.

Approved and effective May 31, 1941.

Section 7 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing eligible cities, as defined herein to issue refunding revenue bonds to take up outstanding revenue bonds issued for the purpose of constructing Exposition and Convention Halls or Coliseums; prescribing the method of issuing and securing such bonds; prescribing the duties of cities and of the officials of

cities issuing such refunding bonds; requiring the approval and prescribing the effect of approval of such bonds by the Attorney General; providing for the registration and delivery of such bonds; enacting other provisions relating to the subject and relating to the issuance and security of such bonds; making this Act cumulative of other laws General or Special, but providing that it shall take precedence over other laws or charter provisions in conflict or inconsistent herewith, and declaring an emergency. Acts 1941, 47th Leg., p. 652, ch. 395.

Art. 802c. Refunding bonds of certain cities operating utilities—Eligible cities

Section 1. This Act shall be applicable to cities operating under charters either adopted or amended by vote of the people, which own and operate waterworks, electric light and sanitary sewer systems, and whose outstanding bond and time warrant indebtedness, including accrued and unpaid interest thereon, exists in an aggregate amount of not less than thirty-five (35) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purposes of this Act shall be an "eligible" city.

Refunding bonds authorized; proceedings under Municipal Bankruptcy Act authorized; pledge of revenues from utilities

Sec. 2. Any eligible city is authorized to issue refunding bonds for the purpose of taking up all or any part of its outstanding indebtedness evidenced by bonds or interest-bearing time warrants, or both, regardless of whether such indebtedness is in its original form or has been funded, or refunded, in whole or in part, such refunding bonds to bear interest at a rate or rates to be determined by the governing body of said city, not exceeding the average rate or rates of interest borne by the indebtedness to be refunded, and no election shall be required as a condition precedent to the issuance of the said refunding securities. In the event not less than seventy-five (75) per cent of the total amount of its outstanding indebtedness is refunded in accordance with the provisions of this Act,

by consent of the holders of such portion of such indebtedness, or under a plan of composition confirmed or to be confirmed by the Court in proceedings instituted by such city under Title 11, Chapter 9, of the United States Code,¹ and amendment thereto, which proceedings by any such city are hereby expressly authorized, the governing body of such eligible city, in addition to the levying of a tax to pay the principal and interest of said refunding bonds, is authorized to pledge to the payment of such principal and interest, a designated annual amount or a designated proportion of the net revenues from the operation of any one or more of the utility systems owned and operated by said city, which pledge shall remain in full force and effect so long as any part of the principal or interest of said refunding bonds is outstanding and unpaid. For the purposes of this Act the expression "net revenues" shall mean the gross revenues of such system or systems after the payment of the reasonable and necessary expenses of operation, maintenance, and collection of income, including salaries and wages of employees of such utility or utilities, the setting aside of a five (5) per cent (of such gross income) reserve for replacements, depreciations, and obsolescence, and for the construction of such extensions and additions as may be determined by the governing body to be reasonably necessary and economically justified. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city, after making said pledge of such utility revenues, to establish and maintain utility rates adequate to yield revenues sufficient to operate and maintain said utility systems and to fulfill the city's pledge of said utility revenues.

Amount of bonds; procedure; registration

Sec. 3. The refunding bonds authorized in this Act may be issued in an amount not exceeding the combined amount of outstanding principal, matured interest coupons, and accrued interest on said original securities and shall mature at such time or times as the governing body may prescribe. The procedure of the issuance of said refunding bonds shall be that which is prescribed in the Statutes for the issuance of refunding bonds to take up outstanding bonds.

Such refunding bonds shall be registered by the Comptroller of Public Accounts in exchange for and upon cancellation of such original indebtedness after they shall have been approved by the Attorney General, and when so registered shall have all of the elements of protections of bonds approved by the Attorney General of Texas under the provisions of Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925.

Form of bonds; exemptions from certain charter provisions

Sec. 4. Refunding Bonds issued under this Act shall be fully negotiable coupon bonds payable to bearer, constituting general obligations of the issuing city, and the holders thereof shall succeed to all the privileges of the holders of the indebtedness constituting the basis of the Refunding Bonds except as modified and changed by the express terms of the proceedings employed in the refunding operation. No provisions in the charter of any such issuing city shall be applicable to the Refunding Bonds thus to be issued but the provisions of this Act and other General Laws shall prevail as to said Refunding Bonds. Particularly, and without limiting the generality of the foregoing, said Refunding Bonds shall be exempt from any charter provision restricting the interest rate to be borne by said bonds, limiting the maximum tax rate which may be levied to pay the principal and interest thereof, restricting the place of payment, restricting the recovery of interest upon defaulted principal and interest

coupons, requiring the registration of said bonds, requiring notice of intention as a condition precedent to the right to bring suit on said bonds or coupons, or requiring an election thereon.

Law cumulative; conflicting provisions

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with the provision of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail. Acts 1941, 47th Leg., p. 132, ch. 103.

1 11 U.S.C.A. §§ 401-404.

Filed without the Governor's signature, April 12, 1941.

Effective April 17, 1941.

Section 6 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing eligible cities as defined herein to issue refunding bonds; providing method of paying and securing such

bonds; enacting other provisions relating to the subject and other provisions relating to the issuance and payment of such bonds; authorizing proceedings under the Municipal Bankruptcy Act; making this Act cumulative of other laws, providing that it shall take precedence over other laws, general or special, and all charter provisions in conflict or inconsistent herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 132, ch. 103.

Art. 802d. Refunding bonds of cities whose streets link state highways

Section 1. That the governing body of any city or town in this State whose street or streets form a connecting link between State Highways, having outstanding as of the effective date of this Act, unpaid and delinquent indebtedness against its general fund, whether in the form of scrip warrants, warrants or notes, or in either or all of such forms, and which cannot derive revenues for general fund operating purposes from any publicly owned utilities at this time, is hereby authorized to issue funding or refunding bonds for the purpose of funding any such items which constitute legal indebtedness of such city or town. No election nor notice of intention to issue such funding or refunding bonds shall be required. If funding or refunding bonds are issued they shall be issued in the manner prescribed by Article 717 of the Revised Civil Statutes of Texas, 1925, for the issuance of refunding bonds.

Maturity; interest rate

Sec. 2. Such funding or refunding bonds shall mature serially or otherwise, not to exceed thirty (30) years from their date and shall bear a rate of interest not to exceed five (5) per cent per annum, payable annually or semiannually.

Tax levy to pay bonds and interest

Sec. 3. When said funding or refunding bonds are issued it shall be the duty of the governing body of such city or town to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Approval and registration

Sec. 4. If funding or refunding bonds are issued they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas, 1925, and shall be registered by the Comptroller of Public Accounts as is provided in said Articles.

Outstanding indebtedness validated

Sec. 5. All such outstanding indebtedness is hereby validated, provided that the provisions of this Section shall not be applicable to any such items of indebtedness which may be in litigation at the time this Act becomes effective.

Debt burden not increased

Sec. 6. This Act shall not be interpreted so as to authorize an increase in the debt burden of any such city or town.

Act cumulative; conflicting provisions

Sec. 7. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws the provisions hereof shall prevail and be effective to the extent of such conflict.

Certificate of necessity of improvement

Sec. 8. If funding or refunding bonds are issued such city or town shall furnish to the Attorney General, at the time of submission of the bond transcript, a certificate of the necessity of such street improvement by the State Highway Department. Acts 1941, 47th Leg., p. 937, ch. 566.

Passed over Governor's veto, July 3, 1941.

Section 9 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

The Act of 1941 contained a preamble which read as follows:

"Whereas, Certain cities and towns of this State are faced with the immediate necessity of making improvements in streets which are the connecting link between State Highways which State Highways are being and will be used as Military Highways; and

"Whereas, Said cities and towns are unable to make and maintain such street improvements without increasing the debt burden unless they be permitted to fund or refund their current general fund obligations; therefore,"

Title of Act:

An Act authorizing cities and towns eligible under the terms of this Act to fund certain indebtedness outstanding on the effective date of this Act; prescribing the method and procedure for issuance of funding or refunding bonds, and which cities or towns cannot derive revenues for general fund operating expenses from any publicly owned utilities at this time; validating such outstanding indebtedness not in litigation at the time this Act becomes effective; providing that this Act shall not increase the debt burden of any such city or town; providing that this Act shall be cumulative of all other Acts, but that its provisions shall prevail in the event of conflict with other laws; enacting provisions incident to and relating to the subject; and declaring an emergency. Acts 1941, 47th Leg., p. 937, ch. 566.

CHAPTER SEVEN—MUNICIPAL BONDS

Art. 827. 890, 465, 419 Funding of debt

Refunding bonds of cities under 1941 acts, see articles 802b—2, 802b—3, 802b—4, 802c.

CHAPTER EIGHT—SINKING FUNDS—INVESTMENTS, ETC.

Art. 842a. Securities issued by Federal Agencies; exchange by Building and Loan Associations of bonds with shareholders

That, hereafter, all mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness, issued or that hereafter may be issued under the terms and provisions of the National Housing Act, approved by the President of the United States on June 27, 1934, as amended¹ and as may hereafter be amended, and all "insured accounts" issued or that may hereafter be issued by any institution insured under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended² and as may hereafter be amended, or any evidences of indebtedness or accounts that may be issued or insured by any lawful agency created thereunder, all mortgages, bonds, debentures, notes, collateral trust certificates, or other such evidences of indebtedness, which have been or which may hereafter be issued by the Federal Home Loan Bank Board, or any Federal Home Loan Bank, or the Home Owners' Loan Corporation, or by the Federal Savings and Loan Insurance Corporation, or by the Reconstruction Finance Corporation, or by the Federal Farm Loan Board, or by any Federal Land Bank, or by any National Mortgage Association, or by any entity, corporation or agency, which has been or which may be created by or authorized by any Act, which has been enacted or which may hereafter be enacted by the Congress of the United States, or by any amendment thereto, which has for its purpose the relief of, refinancing of or assistance to owners of mortgaged or encumbered homes, farms, and other real estate, and the improvement or financing or the making of loans on any real property, shall hereafter be lawful investments for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds or mortgages are authorized by law to be accepted. Such mortgages, bonds, debentures, notes, collateral trust certificates and other such evidences of indebtedness, insured accounts shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees, and receivers, for building and loan associations, savings departments of banks, incorporated under the laws of Texas, for banks, savings banks and trust companies, chartered under the laws of Texas, and all insurance companies of every kind and character, chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State; providing further that where such mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness are issued against and secured by promissory notes, or other obligations, the payment of which is secured in whole or in part, by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such mortgages, bonds, debentures, notes, collateral trust certificates, or other such evidences of indebtedness are acquired, directly or indirectly, in exchange for or in substitution of notes, or other obligations, secured by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such "insured accounts" are issued by building and loan associations chartered under the laws of Texas or by Federal Savings and Loan Associations domiciled in Texas, then such mortgages, bonds, debentures, notes, collateral trust certificates or other such evidences of indebtedness, "insured accounts", so issued and so secured, or so acquired or insured, shall be regarded for investment purposes by insurance companies as "Texas Se-

curities", within the meaning of the laws of Texas governing such investments.

The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas, affecting the investment of funds or moneys by fiduciaries, guardians, administrators, trustees and receivers, building and loan associations, savings departments of banks, incorporated and doing business under the laws of Texas, commercial banks, savings banks and trust companies, chartered and doing business under the laws of Texas, insurance companies of any kind and character, chartered and transacting business under the laws of Texas, and all corporate creatures, organized and doing business under the laws of Texas.

It is hereby declared to be the legislative intent to enact a separate provision of this Act independent of all other provisions, and the fact that any phrase, sentence, or clause of this Act shall be declared unconstitutional, shall in no event affect the validity of any of the provisions hereof. As amended, Acts 1941, 47th Leg., p. 1356, ch. 618, § 1.

¹ 48 Stat. 1246.

² 12 U.S.C.A. §§ 1724-1730.

Approved and effective July 23, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art.
881a—37c. Making loans, advancing credits and purchasing obligations

tions; permission to insured associations; laws applicable [New].

Art. 881a—1. Building and loan associations defined

Stock transfer and sales tax act inapplicable to building and loan associations, see article 7047m.

Art. 881a—19. Report to Governor

The Banking Commissioner of Texas shall annually, at the earliest possible date after the statements of all building and loan associations are received, make a report to the Governor, of the general conduct and condition of all building and loan associations doing business in this State, including the information contained in such building and loan associations' annual statements, arranged in tabular form, together with such suggestions as it may deem expedient. The Banking Commissioner of Texas shall have printed as many copies of such report as in his judgment may be necessary. As amended Acts 1941, 47th Leg., p. 346, ch. 188, § 1.

Approved May 2, 1941.

Effective May 2, 1941.

Section 3 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

Art. 881a—37c. Making loans, advancing credits and purchasing obligations; permission to insured associations; laws applicable

Any building and loan association, organized and operating under the laws of this State, (a) may make loans, advance credit and purchase obligations representing loans and advances of credit for the purpose of building residential properties in "Defense Housing Areas" when such loans and obligations are secured by a mortgage that is insured against loss as a "Defense Housing Insured Mortgage" by the Federal Housing Administrator under provisions of the National Housing Act, approved June 27, 1934,¹ as amended and as may hereafter be amended, and which obligations and mortgages are created subject to the rules and regulations as have been or which may hereafter be prescribed by the Federal Housing Administrator; and (b) may make loans, advance credit, and purchase obligations representing loans and advances of credit for the purpose of financing alterations, repairs and improvements upon or in connection with existing structures, and the building of new structures, upon urban and suburban real property, by the owners thereof or by lessee of such real property where the association is insured against losses that it may sustain as a result of such loans, advances of credit, and purchases of obligations under provisions of Title 1 of the National Housing Act, approved June 27, 1934,² as amended and as may hereafter be amended, and subject to the rules and regulations as have been or may hereafter be prescribed by the Federal Housing Administrator; and (c) may purchase the fee simple title to real property upon which improvements have been erected out of the proceeds of a loan which is secured by an obligation and mortgage, authorized, created and insured under provisions of the National Housing Act, approved June 27, 1934, as amended and as may hereafter be amended, and which obligation and mortgage is in compliance with the rules and regulations prescribed by

the Federal Housing Administrator, provided, that at the time of such purchase there is a valid lease in effect creating a leasehold interest in such land and improvements thereon, which lease has a term of at least twenty (20) years from the date of the note and complies with all requirements, terms, conditions, rules and regulations of the Federal Housing Administrator; and (d) may make loans to members secured by the pledge of the association's shares or share accounts, either participating or non-participating, which shares or share accounts through the payment of uniform weekly or monthly dues or share payments contracted to be made thereupon shall equal the amount of the loan to the member, provided, the aggregate of the unpaid principal of all loans made to any one member of the association under the provisions of sub-paragraph "(d)" hereof shall not exceed at any time the sum of Three Hundred (\$300.00) Dollars, that such loan shall be payable when the shares or share account equals the amount of the loan which shall not exceed eighteen (18) months from its date and which loan may bear interest not in excess of the lawful contract rate, which may be deducted in advance. Such associations may charge reasonable fees for investigation, appraisal or other costs incident to the application and the loan, but not exceeding One (\$1.00) Dollar for each Fifty (\$50.00) Dollars or major fraction thereof, and may take such additional security as they may deem necessary or proper. The aggregate total amount of the unpaid principal of loans held by any association at any one time, as authorized by sub-paragraph "(d)" hereof, shall be included within the amount and shall not exceed the prescribed limitation placed upon the aggregate amount of funds authorized to be invested by any association under the provisions of sub-division five of Section 38 of the Acts of the Second Called Session of the 41st Legislature, Chapter 61, page 100, as amended;³ and, provided further, that where such association is an "insured" association subject to the provisions of Title IV of the National Housing Act, approved June 27th, 1934,⁴ as amended, before any such association may make any loans authorized under sub-paragraph "(d)" hereof, prior permission in writing must be given by the Federal Savings and Loan Insurance Corporation, Washington, D. C., and a copy of such permission filed with the State Banking Commissioner of Texas; provided, that no law of this State prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made by building and loan associations, or prescribing or limiting the period for which loans or advances of credit may be made, or prescribing or limiting the amount of the monthly payment of dues upon the installment shares of such associations, shall be deemed to apply to loans, advances of credit or purchases of obligations made pursuant to the authority granted herein under "(a)", "(b)" and "(d)" hereof, and no law of this State relating to the acquisition, handling and disposition of real property by building and loan associations shall be deemed to apply to the authority granted herein under "(c)" hereof; and, provided further, that the Banking Commissioner of Texas is hereby authorized to prescribe additional regulations applying to the making of loans, advancing of credit, and purchase of obligations and real property, as authorized herein, if in his judgment the protection of investors requires such additional regulations, and notice of his order fully setting out such additional regulations shall be given by registered mail to each building and loan association operating under his supervision at least thirty (30) days prior to the effective date of such order; and after the effective date so provided, it shall thereafter be unlawful for any association to exercise the authority herein given, without full compliance with such

additional regulations. The provisions of this Act shall be cumulative of all other provisions of the laws of Texas relating to the investment and lending of funds and moneys of building and loan associations, chartered and doing business under the laws of the State. Acts 1929, 41st Leg., 2nd C.S., p. 100, ch. 61, § 38-c, added Acts 1941, 47th Leg., p. 346, ch. 188, § 2.

¹ 12 U.S.C.A. § 1701 et seq.

² 12 U.S.C.A. §§ 1702-1706a.

³ Article 881a—37.

⁴ 12 U.S.C.A. §§ 1724-1730.

Approved and effective May 2, 1941.

TITLE 25—CARRIERS

6. REGULATION OF MOTOR BUS TRANSPORTATION

Art.

911e. Transportation agents, regulation of
[New].

1. DUTIES AND LIABILITIES

Art. 883. 708, 320, 278 Liability fixed; notice of claim may be required

Railroad companies and other common carriers of goods, wares and merchandise, for hire, within this State, on land, or in boats or vessels on the waters entirely within this State, shall not limit or restrict their liability as it exists at common law, by any general or special notice, or by inserting exceptions in the bill of lading or memorandum given upon the receipt of the goods for transportation, or in any other manner whatever. No special agreement made in contravention of this Article shall be valid; provided, however, that a requirement of notice or claim, consistent with the provisions of Article 5546 of the Revised Civil Statutes of Texas, 1925, as a condition precedent to the enforcement of any claim for loss, damage and delay, or either or any of them, whether inserted in a bill of lading or other contract or arrangement for carriage, or otherwise provided, shall be valid and is not hereby prohibited. As amended Acts 1941, 47th Leg., p. 805, ch. 500, § 1.

Approved and effective June 14, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

[6. REGULATION OF MOTOR BUS TRANSPORTATION.]

Art. 911a. Motor bus transportation and regulation by railroad commission

[Regulations by Commission]

Sec. 4.

(c). Repealed Acts 1941, 47th Leg., p. 245, ch. 173, § 2.

Persons holding license under article 6687b not required to obtain license from any other State authority or department, see article 6687b, § 2, subsec. (c).

Art. 911b. Motor carriers and regulation by Railroad Commission; definitions

Sec. 1.

(i) "Specialized motor carrier" means any person owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting, over any public highway in this State, over irregular routes on irregular schedules, for compensation and for the general public with specialized equipment, property requiring specialized equipment in the transportation and handling thereof; provided, that the term "specialized motor carrier" as used in this Act shall not apply to motor vehicles operated exclusively within the incorporated lim-

its of cities or towns; and, provided further the term "specialized motor carrier" as used herein shall include those carriers who engage or desire to engage exclusively in the transportation of livestock, livestock feedstuff, grain, farm machinery, timber in its natural state, milk, wool, mohair, or property requiring specialized equipment as that term is hereinafter defined, or any one, or more, of the foregoing named commodities.

For the purpose of this Act, the term "specialized equipment" includes, but is not limited to block and tackle, hoists, cranes, windlasses, gin poles, winches, special motor vehicles, and such other devices as are necessary for the safe and proper loading or unloading of property requiring specialized equipment for the transportation and handling thereof.

For the purpose of this Act, the term "property requiring specialized equipment" is limited to (1) oil field equipment, (2) household goods and used office furniture and equipment, (3) pipe used in the construction and maintenance of water lines and pipe lines, and (4) commodities which by reason of length, width, weight, height, size, or other physical characteristic require the use of special devices, facilities, or equipment for their loading, unloading, and transportation.

For the purpose of this Act, the term "oil field equipment" means and includes machinery, materials, and equipment incidental to or used in the construction, operation, and maintenance of facilities which are used for the discovery, production, and processing of natural gas and petroleum, and such machinery, materials, and equipment when used in the construction and maintenance of pipe lines. As amended Acts 1941, 47th Leg., p. 713, ch. 442, § 2.

Approved and effective June 4, 1941.

Sections 1, 5 and 6 of the amendatory act of 1941 read as follows:

"Section 1. Declaration of Policy. It is hereby declared to be the policy of the Legislature to create a class of common carrier motor carriers designated as 'specialized motor carriers' to engage in the business of transporting for compensation or hire over the highways in this State over irregular routes on irregular schedules with 'specialized equipment,' oil field equipment, household goods, and used office furniture and equipment, livestock, milk, livestock feedstuff, grain, farm machinery, timber in its natural state, wool, mohair, pipe used in the construction and maintenance of water lines and pipe lines, and in addition, all commodities which by reason of length, width, weight, height, size, or other physical characteristic, require the use of special devices, facilities, or equipment for their loading or unloading, and all commodities which require special facilities or special motor vehicles for adequate, efficient, or safe transportation; to regulate such carriers in the public interest to the end that the highways may be rendered safer for the use of the general public, that the wear of such

highways may be reduced, that congestion of traffic on the highways may be minimized, and that the use of the highways may be restricted to the extent required by the necessity of the general public; provide regulation for all common carriers, without unjust discriminations, undue preferences or advantages, unfair or destructive competitive practices; improve the relations between and coordinate transportation by the regulation of such motor carriers and other common carriers; preserve the common carriers serving the public in the transportation of commodities generally over regular routes; develop and preserve a complete transportation system properly adapted to the needs of the commerce of this State and of the National Defense Program.

"Sec. 5. Nothing in this Act shall be construed to repeal or alter House Bill No. 25, Acts, Regular Session, Forty-seventh Legislature [article 911b, §§ 1a, 1b].

"Sec. 6. The number of employees and the salaries of each shall be as fixed in the Departmental Appropriation Bill."

Section 7 declared an emergency and provided that the Act should take effect from and after its passage.

Terms "Motor Carrier" and "Contract Carrier" not to include what

Sec. 1a (1) Provided, however, that the term "Motor Carrier" and the term "Contract Carrier" as defined in the preceding section shall not be held to include:

(a) Any person having a regular, separate, fixed, and established place of business, other than a transportation business, where goods, wares, and merchandise are kept in stock and are primarily and regularly bought from the public or sold to the public or manufactured or processed by such person in the ordinary course of the mercantile, manufacturing, or processing business, and who, merely incidental to the operation of such business, transports over the highways of this State such goods of which such person is the bona fide owner by means of a motor vehicle of which such person is the bona fide owner; nor

(b) Any person transporting farm implements, livestock, livestock feedstuffs, dairy products, horticultural products, floral products, agricultural products, timber in its natural state, or wool and mohair of which such person is the bona fide owner on a vehicle of which he is the bona fide owner to and from the area of production and to and from the market or place of storage thereof; provided, however, if such person (other than a transportation company) has in his possession under a bona fide consignment contract livestock, wool, mohair, milk and cream, fresh fruits and vegetables, or timber in its natural state under contract, as an incident to a separate, fixed, and established business conducted by him the said possession shall be deemed ownership under this Act.

(c) Where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of employees, petroleum products, and incidental supplies used or sold in connection with the wholesale or retail sale of such petroleum products from the refinery or place of production or place of storage to the place of storage or place of sale and distribution to the ultimate consumer, in a motor vehicle owned and used exclusively by the marketer or refiner, or owned in whole or in part and used exclusively by the bona fide consignee or agent of such single marketer or refiner; as well as where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of petroleum, employees, material, supplies, and equipment for use in the departments of the petroleum business by the bona fide owner thereof in a vehicle of which he is the bona fide owner; bona fide consignee or agent as used herein being hereby defined and construed, for the purpose of this Act, to mean a person under contract with a single principal to distribute petroleum products in a limited territory and only for such single principal; nor

(d) Any utility company using its own equipment transporting its own property over the highways.

(2) The term "person" as used in this Act shall include persons, firms, corporations, companies, copartnerships, or associations or joint stock associations (and their receivers or trustees appointed by any Court whatsoever). Added Acts 1941, 47th Leg., p. 463, ch. 290, § 1.

Private motor vehicle owners

Sec. 1b. Any person who transports goods, wares, or merchandise under the circumstances set forth in the foregoing Section 1a so as to be excluded by the terms of said Section from the definition of "motor carrier" or "contract carrier" shall be deemed to be a private motor vehicle owner; and such use of the highways by such private motor vehicle owners, as herein defined, shall be construed as use of the highways for the general public and not the use of such highways for the carrying on the business of transporting property for compensation or hire. Added Acts 1941, 47th Leg., p. 463, ch. 290, § 1.

Approved May 16, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 read as follows: "If any section, subsection, clause, sentence, or phrase of this

Act is for any reason held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it is the purpose hereof to relieve private motor vehicle owners, as herein defined, from the provisions and operations of said Motor Carrier Law as incorporated in said Chapter 277, Acts of the Regular Session of the Forty-second

Legislature [Article 911b; Vernon's Rev. Pen.Code, art. 1690b] and amendments thereto."

Section 3 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Supervision and regulation by Commission

Sec. 4.

(b). Repealed Acts 1941, 47th Leg., p. 245, ch. 173, § 2.

Certificates of convenience and necessity; issuance to specialized motor carrier; application; filing fee

Sec. 5a. (a) The Commission is hereby given authority to issue upon application and hearing as provided in this Act, to those persons who desire to engage in the business of a "specialized motor carrier," certificates of convenience and necessity in the manner and under the terms and conditions as provided in this Act.

Any certificate held, owned, or obtained by any motor carrier operating as a "specialized motor carrier" under the provisions of this Act, may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such manner as to render the services demanded by the public necessity and convenience in the territory covered by the certificate, or that said proposed sale, assignment, lease, or transfer is not best for the public interest; the Commission, in approving or disapproving the sale, assignment, lease, or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant required in this Act and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided however, that in case a certificate is transferred that the transferee shall pay the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the certificate, which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided further, that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the rights of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity is approved or not.

(b) No motor carrier shall transport oil field equipment, household goods, used office furniture and equipment, livestock, milk, livestock feed-

stuff, grain, farm machinery, timber in its natural state, wool or mohair, on any highway in this State unless there is in force with respect to such carrier and such carrier is the owner or lessee of a certificate of convenience and necessity issued pursuant to a finding and containing a declaration that a necessity requires such operation or a contract carrier permit issued by the Commission, authorizing the transportation of such commodity or commodities; providing that nothing herein shall modify, restrict, or add to, the authority of the common carrier motor carriers operating under certificates of convenience and necessity issued by the Commission, nor shall any person who now holds or who may hereafter hold a certificate of convenience and necessity to operate as a common carrier be granted any certificate of convenience and necessity to operate as a Specialized Motor Carrier; provided further that any person to whom a "Special Commodity" permit for the transportation of any or all of said commodities had been issued under the provisions of Section 6, paragraph (d), Article 911b, Title 25, Revised Civil Statutes of the State of Texas, 1925, as amended, if such "Special Commodity" permit shall have been in force and effect on January 1, 1941, and if such person or predecessor in interest may desire to continue in the business of a motor carrier of such commodity or commodities shall file an application for a certificate of convenience and necessity under the terms of this Act within sixty (60) days after the effective date hereof, it shall be the duty of the Commission to issue without further proof a certificate authorizing the operation as a "Specialized Motor Carrier" for the transportation of such commodity or commodities covered by the "Special Commodity" permit held by the applicant, which "Specialized Motor Carrier" certificate shall be issued to the applicant and include all the rights and privileges granted under said "Special Commodity" permit.

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:

1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, and shall contain a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such applicant entitled thereto, it shall issue certifi-

cate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. The Commission shall have no authority to grant any application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier unless it is established by substantial evidence (1) that the services and facilities of the existing carriers serving the territory or any part thereof are inadequate; (2) that there exists a public necessity for such service, and (3) the public convenience will be promoted by granting said application. The order of the Commission granting said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact pointing out in detail the inadequacies of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points where the existing carriers are rendering, or are capable of rendering, a reasonably adequate service in the transportation of such commodities.

(e) Except where otherwise provided, applications for and holders of certificates of public convenience and necessity, as provided for in this Section, shall be subject to all of the provisions of the Act relating to common carriers by motor vehicle.

(f) Every application for a certificate of public convenience and necessity under this Section shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25), which fee shall be in addition to other fees and taxes, and shall be retained by the Commission whether certificate of convenience and necessity is granted or not.

(g) For the purpose of defraying the expense of administering this Act, every motor carrier operating as a "specialized motor carrier" in this State shall at the time of the issuance of a certificate of convenience and necessity to him, and annually thereafter on or between September 1st and September 15th of each calendar year, pay a special fee of Ten Dollars (\$10) for each motor-propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth the annual fee. In case of emergency or unusual temporary demands for transportation the fee for additional motor-propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order.

(h) It shall be unlawful for any "specialized motor carrier" as hereinbefore defined, to operate any motor vehicle within this State unless there shall be displayed and firmly fixed upon the front and rear of such vehicle an identification plate to be furnished by the Commission. Each of such plates shall be designed so as to identify the vehicle on which the same is attached as being a vehicle authorized to operate under the terms of this Act; said plate shall bear the number given to the vehicle by the Commission and such other marks of identification as may be necessary. The plates for vehicles operated by "specialized motor carriers" shall be different in design to the plates for common carrier vehicles and the plates for contract carrier vehicles. The identification plates provided for herein shall be in addition to the regular license plates provided by law. It shall be the duty of the Commission to provide these plates and each motor vehicle operating in this State shall display such plates as soon as the same are received, and such plates shall be

issued annually thereafter and attached to each motor vehicle not later than September 1st of each year, or as soon thereafter as possible. The Commission shall be authorized to collect from the applicant a fee of One Dollar (\$1) for each pair of plates so issued, and all fees for such plates shall be deposited in the State Treasury to the credit of the Motor Carrier Fund. Added Acts 1941, 47th Leg., p. 713, ch. 442, § 4.

Application for permits; special permits; specialized motor carrier certificates; transfer or sale of permits

Sec. 6.

(d). The Railroad Commission is hereby given authority to issue upon application to those persons who desire to engage in the business of transporting for hire over the highways of this State livestock, mohair, wool, milk, livestock feedstuff, household goods, used office furniture and equipment, oil field equipment, timber in its natural state, farm machinery and grain, "Specialized Motor Carrier" certificates when it is shown by substantial evidence that there exists (1) a public necessity for such service, and that (2) public convenience will be promoted by the granting of said application.

Such certificates shall be granted upon such terms, conditions and restrictions as the Railroad Commission may deem proper, and said Railroad Commission is authorized to make rules and regulations governing such operations, keeping in mind the protection of the highways and the safety of the traveling public.

Provided that the order of the Commission granting said application, and the certificate issued thereunder shall set forth in its order findings of fact pointing out the inadequacies of the service of the existing carriers and the public need for such proposed service. As amended Acts 1941, 47th Leg., p. 713, ch. 442, § 3.

Hours of labor

Sec. 6-cc. No motor carrier operating in whole or in part in this State under a certificate or permit issued by the Railroad Commission of Texas, or any officer or agent of such motor carrier, shall require or knowingly permit any truck driver or his helper to drive or operate a truck for a period longer than ten (10) consecutive hours; and whenever such driver or helper shall have been continuously on such duty for ten (10) hours, he shall be relieved and shall not be required or knowingly permitted to again go on duty until he has had at least eight (8) consecutive hours off duty; and no such driver or helper who has been on such duty ten (10) hours in the aggregate in any twenty-four hour period, shall be required or knowingly permitted to continue or again go on duty without having had at least eight (8) consecutive hours off duty; and venue for prosecution under this Section shall lie in any county where said offense or any part of same is committed; provided that in cases of emergency caused by the Act of God, or any other emergency over which the operator has no control, the foregoing restrictions as to hours shall not apply. As amended Acts 1941, 47th Leg., p. 86, ch. 71, § 6.

Approved and effective March 24, 1941.

For sections 3, 7-10, Acts 1941, 47th Leg., p. 86, ch. 71, see Vernon's Ann.P.C. art. 827a, § 5 note.

Art. 911d. Regulation of motor bus ticket brokers—definitions

Transportation agents, regulation of, see art. 911e.

Art. 911e. Transportation agents, regulation of—Definitions

Section 1. In this Act, unless the context otherwise requires:

(a) The term "person" when used in this Act means an individual, firm or corporation.

(b) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas.

(c) The term "transportation agent" as used in this Act means a person acting, either individually or as an officer of a corporation, member of a partnership or association, or employee, agent or representative of a corporation, or otherwise, who or which shall sell or offer for sale, for compensation, transportation for passengers of any character, or who or which make any contract, agreement, or arrangement to provide, furnish, or arrange for such transportation, directly or indirectly, whether by selling of tickets or of information, or the introduction of parties where a consideration is received or otherwise, or who or which shall hold himself or itself out by advertisement, solicitation or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, information or introduction, where said transportation is to be performed by the use of motor vehicles by persons, firms, corporations, associations, including lessees, trustees and receivers, not holding a certificate or certificates of convenience and necessity from the Railroad Commission of Texas.

Provided that, the provisions of this Act shall not apply where such transportation is to be performed wholly within the limits of any incorporated town or city and the suburbs thereof.

(d) The term "license" as used in this Act means a license issued to a transportation agent.

License required

Sec. 2. It shall be unlawful for any person to engage in the business or act in the capacity of a transportation agent without first obtaining a license from the Commission.

Issuance of license

Sec. 3. A license may be issued to any qualified applicant therefor by the Railroad Commission of Texas upon application to the Commission in such form as the Commission shall prescribe, and if it be found that the applicant is fit, willing and able to properly perform the services of a transportation agent, and to conform to the rules, requirements and regulations of the Commission promulgated thereunder, and upon the payment of the fee herein provided and the filing of a proper bond, as herein provided. Upon compliance with the above and foregoing conditions, and upon a finding that the applicant is fit, willing and able to properly perform the services of a transportation agent, the Commission shall issue the license; otherwise, the application for such license shall be denied. If granted, the license shall contain: (1) The name of the licensee; (2) the location at which applicant is licensed to act as a transportation agent; and the license shall, after issuance by the Commission, be displayed in a prominent place at the location named therein, and it shall be unlawful for the licensee to do business as a transportation agent at any other location. No license shall be trans-

ferable or assignable. If any applicant operates or desires to operate at more than one location, he shall be required to procure a separate license for each such location.

License fee; expiration

Sec. 4. The fee for a transportation agent's license shall be One Hundred (\$100.00) Dollars per year, to be paid at the time of the application therefor or the renewal thereof, and every transportation agent's license shall expire on the 31st day of December of each year; provided licenses for a fractional part of a year may be issued by the Commission, to expire on the 31st day of December of the year when issued, upon the payment of the fee for the pro-rata part of the year, and upon the applicant complying with the other terms and conditions of this Act. The Commission shall furnish such forms for application for license, or the renewal of license, as may be necessary, and which may be had by application to the Commission.

Transportation agent's bond

Sec. 5. Before issuing a transportation agent's license the Commission shall require the applicant to furnish bond, payable to the State of Texas, in the sum of One Thousand (\$1,000.00) Dollars, with solvent sureties, to be approved by the Commission, conditioned that the applicant will faithfully perform all the duties and undertakings of a transportation agent. Such bond shall be for the benefit of the State of Texas, as well as for all persons dealing with such transportation agent. Any person who suffers injury or damages by reason of any negligence of a transportation agent, or by reason of the breach by such transportation agent of any of the conditions of his license, or any duties imposed upon such transportation agent by the terms of this Act, may bring suit in any court of competent jurisdiction in any county wherein such injury or damages may have occurred, and recover upon such bond. Provided further, that if any such bond shall for any reason be cancelled, annulled, exhausted, or partly exhausted, then the license of such transportation agent shall stand suspended until an additional bond of like amount and tenor shall be filed with and approved by the Commission.

Records

Sec. 6. Every transportation agent shall maintain and keep for not less than (2) years, an exact record, on forms to be provided by the Commission, of all transactions as such agent, including: (1) amount paid to him by each person transported, and by any motor carrier, and name of each such payor; (2) point of destination; (3) name of motor carrier; (4) name of driver of the vehicle used; and (5) license number or other identification plate number, and make and motor number of the vehicle. Every transportation agent shall, by the tenth (10th) day of each month, file with the County Clerk of the county in which he is licensed to do business under this Act, a verified copy of the above record for the month next preceding the date of such filing, and the County Clerk shall keep such records for not less than two (2) years from date of filing, and the same shall be subject to inspection by any person as public records. A certified copy of such records, or any part thereof, duly certified by the County Clerk in whose office they are on file, shall be received as competent evidence in the trial of any case wherein the actions of the transportation agent making such records are

in issue, or in any hearing before the Railroad Commission, or under its jurisdiction, involving the actions of the transportation agent making such records.

Disposition of fees collected

Sec. 7. All license fees paid or to be paid for licenses as herein provided shall be payable to the State Treasurer at Austin, Texas, and shall be by the State Treasurer deposited in the State Treasury and credited to a fund known and designated as the "Motor Transportation Fund", and to be used in administering this Act, and for no other purpose.

Provided, however, that all moneys on hand on September 1, 1943, and all moneys thereafter collected for fees or licenses under this Act shall be paid into the General Revenue Fund by the State Treasurer and after such date no expenditures shall be made for enforcement of this Act except under authority of the Legislature as set forth in the General Appropriation Bill and no appropriation shall ever exceed the fees and licenses paid and collected under this Act.

Violations of Act

Sec. 8. Any person acting as a transportation agent without a license duly issued by the Railroad Commission of Texas, or any licensed transportation agent violating any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty (\$50.00) Dollars, nor more than One Hundred (\$100.00) Dollars, or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment; and each day the violation continues shall constitute a separate offense.

Cancellation of license

Sec. 9. The Railroad Commission may, in its discretion, after ten (10) days' notice and a hearing, cancel any license issued under the provisions of this Act for the violation of this or any other statute of this State, the violation of any lawful order, rule or regulation promulgated by the Commission under authority hereof, or for any failure of any transportation agent to discharge any and all claims or demands of any member of the public for which such transportation agent may be legally liable by reason of any act of such transportation agent in selling, providing, procuring, contracting, or arranging for such transportation, information, or introduction under the terms of this Act.

Review of Commission's decision; appeal

Sec. 10. The applicant for a transportation agent's license, or any interested person, may, if he or it be dissatisfied with any decision, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party may file a petition setting forth the particular objection to such decision, rule, order, act, or regulation, or to either or all of them in a District Court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil causes in said court; either party to said action may appeal to the Appellate Court having jurisdiction of said cause, and said appeal shall be at once returnable to said Appellate Court having jurisdiction of said cause, and said action so appealed shall have precedence in said Appellate Court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues, the suit may be filed during such

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

term and stand ready for trial after ten (10) days' notice. In all trials under this section, the burden of proof shall rest upon the plaintiff, who must show by the preponderance of the evidence that the decisions, regulations, rules, orders, and acts are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder, and no injunction shall be granted against any order of the Commission without hearing, unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Partial invalidity

Sec. 12. If any section, sub-section, clause, sentence, or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, sub-section, clause, sentence, or phrase thereof irrespective of the fact that any one or more of the sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

Declaration of policy

Sec. 13. The Legislature declares that it is its policy to so regulate the action of transportation agents and persons selling and arranging for transportation by the parties traveling by motor vehicles upon the highways of the State of Texas as to afford the maximum amount of protection to the traveling public, without undue interference with the rights of individuals; it being understood that this Act is not intended to legalize or authorize anyone not holding a certificate of convenience and necessity from the Railroad Commission to transport passengers for compensation, to regularly engage in the transportation business, or to perform the services of a common carrier. Acts 1941, 47th Leg., p. 606, ch. 375.

Approved and effective May 26, 1941.

Section 11 of the Act of 1941 repealed all conflicting laws and parts of laws; section 14 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to regulate "transportation agents", defining the terms "person", "Commission", "transportation agent", and "license"; providing that the Act shall not apply where such transportation is wholly within the limits of any incorporated town or city and the suburbs thereof; to require such transportation agents to have licenses, and prescribing a fee therefor, to furnish bond; providing for the issuance and cancellation of such licenses

by the Railroad Commission of Texas; providing for the keeping of certain records, and for the inspection of said records, and the introduction of such records, or copies thereof, as evidence in certain trials; providing that the Railroad Commission of Texas may make reasonable rules and regulations applicable to all persons holding transportation agent's licenses; providing that the license fees shall be paid into the General Revenue Fund after September 1, 1943, and providing for appropriations thereafter; providing for hearings and for reviews of orders of the Railroad Commission; prescribing a fee for the issuance of a license; providing penalties for certain violations; and declaring an emergency. Acts 1941, 47th Leg., p. 606, ch. 375.

TITLE 26—CEMETERIES

Art.
930a—1. Feed pens or slaughter pens near cemetery a nuisance; injunction; old abandoned or neg-

lected cemeteries; abatement of nuisances in certain counties [New].

Art. 930a—1. Feed pens or slaughter pens near cemetery in certain counties a nuisance; injunction; old abandoned or neglected cemeteries; abatement of nuisances

Section 1. In all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, the maintenance or location of feed pens for hogs, cattle, and horses, or slaughter pens, or of slaughter houses within five hundred (500) feet of any established cemetery is declared to be a nuisance, and the owner of said cemetery, or any of the lot owners therein, may maintain an action in the Courts to abate such nuisance and to enjoin its continuance, and if it appears that such nuisance exists or is threatened in violation of this Act, a perpetual injunction shall be granted against the parties guilty of such nuisance.

Sec. 2. In all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, when an old abandoned, and neglected cemetery for which no perpetual care and endowment fund has been regularly and legally established, is abated as a nuisance, either the Court abating same and enjoining its continuance or the city council of the city in which said cemetery is located, may authorize the removal of all bodies, monuments, tombs, etc., therein to a perpetually endowed cemetery as defined under the laws of the State of Texas; provided however, that if there exists within said county no perpetual care cemetery which under its rules and regulations will permit the interment of the bodies of the persons which are to be removed, the said bodies, monuments, tombs, etc., may be removed to a nonperpetual care cemetery which has provided for assessments for the future care of said cemetery. Acts 1941, 47th Leg., p. 424, ch. 253.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act declaring the location of feed pens for certain livestock or slaughter pens within five hundred (500) feet of a cem-

etery is a nuisance in certain counties; providing for injunction; enacting provisions relative to old, abandoned, and neglected cemeteries; providing for the removal of bodies; and providing for the abatement of nuisances in all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, according to the last preceding Federal Census; and declaring an emergency. Acts 1941, 47th Leg., p. 424, ch. 253.

TITLE 27—CERTIORARI

Art. 933-940. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 344-351, Vernon's Texas Rules of Civil Procedure.

Arts. 942-959. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 575-591, Vernon's Texas Rules of Civil Procedure.

TITLE 28—CITIES, TOWNS AND VILLAGES

Chap.

21. Housing [New].

CHAPTER ONE—CITIES AND TOWNS

Art.	Art.
966a. Validation of incorporation of cities and towns of 5,000 or less [New].	974e—4. Procedure for annexation of unoccupied lands to cities of 1,583 to 1,602 population [New].
974d—1. Validation of incorporation of cities of 600 to 2000 inhabitants [New].	974e—5. Procedure for annexation of unoccupied lands to cities or towns of 900 to 920 population [New].
974e—3. Procedure for annexation of unoccupied lands to cities of 14,100 to 14,950 population [New].	974f. Annexation of streets, highways, and alleys by cities and towns of 1245 to 1260; procedure [New].

Art. 966a. Validation of incorporation of cities and towns of 5,000 or less

Section 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or under the commission form of government, and which have in good faith functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or on account of the incorporation election having been ordered and/or the returns thereof canvassed and result declared by a person exercising the functions and/or performing the duties of County Judge without lawful authority so to do, or on account of other irregularities in the incorporation proceedings.

Sec. 1-a. Provided however, that this Act shall have no effect upon any suit or suits pending at this time in the Courts of this State which involve such cities and towns, nor upon any suit involving such cities and towns which may be filed within ninety (90) days from the effective date of this Act.

Sec. 2. All governmental proceedings performed in good faith by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance. Acts 1941, 47th Leg., p. 33, ch. 19.

Filed without Governor's signature Feb. 26, 1941.

Effective March 6, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating the incorporation of all cities and towns in Texas of five thou-

sand (5,000) inhabitants or less heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of Texas; providing that the incorporation of such cities and towns shall not be held invalid on account of irregularities in ordering the incorporation election, election proceedings and/or canvassing returns and declaring result thereof; providing the Act shall not have any effect upon suits

pending on the effective date of the Act, or suits to be filed within ninety (90) days; and validating all governmental proceedings performed in good faith by the governing bodies of such cities and towns

since their incorporation or attempted incorporation respectively; and declaring an emergency. Acts 1941, 47th Leg., p. 33, ch. 19.

Art. 969a. Lease of islands or submerged lands by certain cities

Section 1. That any city of more than forty-three thousand (43,000) inhabitants according to the last preceding United States Census located in a county in this State of less than one hundred thousand (100,000) inhabitants according to such Census to which city the Republic of Texas, or the State of Texas has heretofore granted any island, flats or other submerged lands be, and is hereby granted power and authority to execute leases for periods of time not to exceed ninety-nine (99) years for portions of such island, flats or other submerged lands as may from time to time be determined by the governing body of such city.

Section 2. Every such lease shall specify the purposes for which the same is made and provide a maximum period of five (5) years within which the lessee shall exercise the rights and privileges granted. As amended Acts 1941, 47th Leg., p. 1353, ch. 616, § 1.

Approved and effective July 12, 1941.

the Act should take effect from and after its passage.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that

Art. 974d. Validation of incorporation of cities of 600 to 2000 inhabitants incorporated since January 1, 1935

Validation of incorporation, see, article 974d—1.

Art. 974d—1. Validation of incorporation of cities of 600 to 2000 inhabitants

Section 1. All cities and towns in Texas of more than six hundred (600) and less than two thousand (2,000) inhabitants, heretofore incorporated and/or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925,¹ whether under the aldermanic form of government or under the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns since their incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, and such governmental proceedings shall be effective the same as if such cities and towns had been regularly incorporated in the first instance.

Sec. 3. The provisions of this bill shall affect no city or town now in litigation. Acts 1941, 47th Leg., p. 232, ch. 162.

¹ Articles 961-1269j.

Filed without the Governor's signature, April 22, 1941.

Effective May 2, 1941.

Section 4 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating the incorporation of certain cities and towns of more than six hundred (600) and less than two thousand (2,000) inhabitants, heretofore incorporated and/or attempted to be incorporated under

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

the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925; and validating all governmental proceedings performed by the governing bodies of such cities and towns since their incorporation

or attempted incorporation, respectively; providing the provisions hereof shall affect no city or town now in litigation; and declaring an emergency. Acts 1941, 47th Leg., p. 232, ch. 162.

Art. 974e—3. Procedure for annexation of unoccupied lands to cities of 14,100 to 14,950 population

Section 1. That the owner or owners of any land or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than fourteen thousand, one hundred (14,100) inhabitants and not more than fourteen thousand, nine hundred and fifty (14,950) inhabitants, according to the Federal Census last preceding the exercise of the power herein granted, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city, and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation owning each part of such land and territory sought to be annexed shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by the owners of such land shall be filed in the office of the County Clerk of the county in which such city is situated. Acts 1941, 47th Leg., p. 423, ch. 252.

Filed without the Governor's signature, May 9, 1941.

Effective May 21, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of certain incorporated cities or towns, on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency. Acts 1941, 47th Leg., p. 423, ch. 252.

Art. 974e—4. Procedure for annexation of unoccupied lands to cities of 1,583 to 1,602 population

Section 1. That the owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than one thousand, five hundred and eighty-three (1,583) inhabitants and not more than one thousand, six hundred and two (1,602) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and ad-

jacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every owner of such land and territory sought to be annexed shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every owner of such land, shall be filed in the office of the County Clerk of the county in which such city is situated. Acts 1941, 47th Leg., p. 432, ch. 264.

Filed without the Governor's signature,
May 12, 1941.

Effective May 21, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of certain incorporated cities and towns on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency. Acts 1941, 47th Leg., p. 432, ch. 264.

Art. 974e—5. Procedure for annexation of unoccupied lands to cities or towns of 900 to 920 population

Section 1. That the owner or owners of any land and/or territory, or the Board of Trustees of any public school, which occupies such territory, which is vacant and without residents contiguous and adjacent to any city in this State having a population of not less than nine hundred (900) nor more than nine hundred and twenty (920) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall

be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having interest in such land, shall be filed in the office of the County Clerk of the county in which such city is situated. Acts 1941, 47th Leg., p. 1417, ch. 650.

Filed without the Governor's signature, July 25, 1941.

Effective July 24, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of certain incorporated cities or towns, on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency. Acts 1941, 47th Leg., p. 1417, ch. 650.

Art. 974f. Annexation of streets, highways, and alleys by cities and towns of 1245 to 1260; procedure

That all cities and towns within the State of Texas, having a population of not less than twelve hundred and forty-five (1245) and not more than twelve hundred and sixty (1260), according to the last preceding census, may, by ordinance duly passed and enacted by the governing bodies of such cities and towns, after the same shall have been advertised as provided by Article 1013 of the Revised Civil Statutes of 1925, annex streets, highways, and alleys adjacent to the city limits of such cities and towns, and incorporate such highways, streets, and alleys within the corporate limits of such cities and towns. Acts 1941, 47th Leg., p. 1417, ch. 649, § 1.

Filed without the Governor's signature, July 25, 1941.

Effective July 24, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the annexation of streets, highways, and alleys by the governing bodies of certain cities and towns; prescribing the method for such annexation; and declaring an emergency. Acts 1941, 47th Leg., p. 1417, ch. 649.

CHAPTER FOUR—THE CITY COUNCIL

Art. 1011d. Method of procedure

Zoning Ordinances Validated. Acts 1941, 47th Leg., p. 656, ch. 397, § 1, effective 90 days after July 3, 1941, date of adjournment reads as follows: "That all zoning ordinances and amendments thereto heretofore passed by the legislative bodies of cities and incorporated villages, pursuant to the power given them by Chapter 283, Acts of the Fortieth Legislature, be and the same are hereby validated, ratified, and confirmed, and are hereby declared to be in full force and effect, in so far as the required procedure and public notices for the passage of such ordinances and the publication of

such ordinances is concerned, as if passed in strict compliance with all the requirements of Chapter 283, Acts of the Fortieth Legislature and other applicable General Laws of the State of Texas and charter provisions; provided however, that the provisions of this Act shall not apply to any proceedings in which the validity of the procedure for the passage of such ordinances or the regularity of the publication of such ordinances has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law."

CHAPTER FIVE—TAXATION

Art.
1027h. Validation of levies of ad valorem taxes in cities or towns in counties of 19,070 to 19,200 [New].

Art.
1027i. Validation of ad valorem tax levies in all cities and towns for certain purposes [New].

Art. 1027h. Validation of levies of ad valorem taxes in cities or towns in counties of 19,070 to 19,200

Section 1. All levies for ad valorem taxes heretofore made by the governing body of any city or town in this State, which are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance as is required by the Statutes of the State, and which are otherwise legally enforceable, are hereby validated, and the same are hereby declared to be legally enforceable the same as though originally levied and assessed in strict conformity with the procedure prescribed therefor by law.

Sec. 2. This Act shall apply only in those counties having a population of not less than nineteen thousand and seventy (19,070) and not more than nineteen thousand, two hundred (19,200), according to the Federal Census for the year 1940.

Sec. 3. This Act shall not affect nor in any manner apply to suits pending for the enforced collection of taxes or for any other purpose. Acts 1941, 47th Leg., p. 606, ch. 374.

Filed without the Governor's signature, June 2, 1941.

Effective June 4, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate all ad valorem tax levies heretofore made by certain cities and towns in certain counties in the State

of Texas, which levies are unenforceable because of the failure of the governing bodies in such respective cities and towns to make such levies by ordinance, or other procedural defect in levying and assessing taxes; providing the Act shall not affect suits pending for collection of taxes or other purpose; and declaring an emergency. Acts 1941, 47th Leg., p. 606, ch. 374.

Art. 1027i. Validation of ad valorem tax levies in all cities and towns for certain purposes

That all levies for ad valorem taxes heretofore made by the governing bodies of any incorporated city or town in this State for current expenses, maintenance of public free schools, and for interest and sinking funds to pay bonded obligations heretofore authorized by the electorate, which levies are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance, or because made and adopted prior to final approval of the annual budget of any such city or town, or because made and adopted at a time when the tax rolls were not actually before the governing bodies of any such city or town, and which levies are otherwise legally enforceable, are hereby ratified, confirmed, and validated, and such levies are hereby declared enforceable the same as though they had been adopted originally by ordinance in strict compliance with all requirements of the law; provided this Act shall not apply to levies the validity of which has been attacked in any

litigation pending in Court at the time this Act becomes effective. Acts 1941, 47th Leg., p. 857, ch. 533, § 1.

Approved and effective June 18, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate all ad valorem tax levies heretofore made by incorporated cities and towns in the State of Texas for current expenses, for support of public free schools, and for interest and sinking funds to pay bonded obligations heretofore authorized by the electorate, which levies are void and unenforceable because the governing bodies of such cities and

towns failed to make such levies by formal ordinance or made the levies prior to final approval of the annual budget, or because the levies were made and adopted without the tax rolls being actually before such governing bodies, and making all such levies enforceable under this Act as though adopted originally by ordinance in strict compliance with all requirements of law; provided this Act shall not apply to levies the validity of which has been attacked by litigation pending in Court on effective date of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 857, ch. 533.

Art. 1030. 927, 489, 428 Poll tax; when prerequisite to voting

The City Council shall have power to levy and collect an annual poll tax, not to exceed One Dollar (\$1) of every inhabitant of said city over the age of twenty-one (21) and under sixty (60) years, those persons exempt by law from paying the State poll tax excepted, who is a resident thereof at the time of such annual assessment; provided that said poll tax levied by the City Council shall not be made a prerequisite to voting in any election in this State except in city elections. As amended Acts 1941, 47th Leg., p. 156, ch. 117, § 1.

Filed without the Governor's signature, April 12, 1941.

Effective April 24, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1042b. Assessment and collection of taxes in cities, towns, villages, drainage districts, and other districts

Section 1. Any incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district in the State of Texas is hereby authorized by ordinance or by proper resolution to authorize the County Assessor of the county in which said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district is located to act as Tax Assessor for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district or authorize the Tax Collector of the county in which said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district is situated to act as Tax Collector for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district.

Sec. 2. When an ordinance or proper resolution is passed, making available the services of the County Tax Assessor to such incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district, it shall be the duty of the said Tax Assessor of the county in which such incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district is situated to assess the taxes for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district and perform the duties of Tax As-

essor for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district according to the ordinances and resolutions of said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district, and according to law.

Sec. 3. When an ordinance or proper resolution is passed availing such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts of the services of the County Tax Collector, it shall be the duty of said Tax Collector of the county in which said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts are situated to collect the taxes and assessment for said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts and turn over as soon as collected to the respective proper depository of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts, or other authority authorized to receive such taxes or assessments, all taxes or moneys collected for said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts according to the ordinances or resolutions of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts, and according to law, less his fees hereinafter provided for, and shall perform the duties of Tax Collector of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts.

Sec. 4. The property in said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts taking advantage of this Act shall be assessed at the same value as it is assessed for county and State purposes.

Sec. 5. When the County Assessor and County Collector are required to assess and collect the taxes in any incorporated city, town or village, drainage district, water control and improvement district, water improvement district, or navigation district, they shall respectively receive for such services an amount to be agreed upon by the governing body of such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts, and the Commissioners Court of the county in which such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, or navigation districts are situated not to exceed one per cent of the taxes so collected. As amended Acts 1941, 47th Leg., p. 404, ch. 235, § 1.

Approved May 8, 1941.

Effective May 8, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES	Art.	eral government was made [New].
Art. 1109a—2. Warrants for completion of waterworks extensions and improvements [New].	1118n—3. Refunding bonds, issuance by cities operating under general law and owning waterworks or sewer system [New].	
2. ENCUMBERED CITY SYSTEM		
1118j—1. Validation of bond proceedings in cities or towns over 5,000 to help finance improvements for which loan or grant from Fed-	1118p. Refunding bonds in cities of 525,000 or more; payment from water or sewer revenues [New].	

1. CITY OWNED UTILITIES

Art. 1107. [1003] [548] Condemnation of property

An incorporated city or town shall have the right of eminent domain to condemn private property for either of the following purposes:

1. To open, change or widen any public street, avenue, or alley.
2. To construct water mains, or supply reservoirs, or standpipes for water works or sewers.
3. To establish thereon one or more hospitals or pesthouses, within or without the limits of such city or town.
4. To construct and maintain sewer pipes, mains and laterals and connections and also private property upon which to maintain vats, filtration pipes and other pipes, and which to use and occupy as a place for ultimate disposition of sewage in or out of the town or city limits, whenever it be made to appear that the use of any such private property is necessary for successful operation of such sewer system, and when it also be made to appear that such sewer system is beneficial to the public use, health, and convenience.
5. Construct, maintain, and operate municipal airports within or without the limits of such city or town.

6. To dig or drill water wells or well upon or produce water from or construct pump stations or reservoirs thereon, whether within or without the city limits. As amended Acts 1941, 47th Leg., p. 267, ch. 181, § 1.

Approved April 29, 1941.
Effective April 29, 1941.
Section 2 of the amendatory Act of 1941, read as follows: "If any section, sentence, or any part whatever of this Act should be held to be unconstitutional or invalid, the same shall not affect the remaining portion of this Act, and it is hereby declared

that the Legislature would have passed that part which is constitutional and valid."

Section 3 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1109a—2. Warrants for completion of waterworks extensions and improvements

Section 1. In each instance where a city heretofore has issued and sold bonds for the purpose of extending and improving its waterworks system, and the governing body thereof finds and determines that the proceeds from such bonds will not be sufficient to complete such extensions and improvements according to plans and specifications heretofore approved by the governing body, and that such extensions and improvements must be completed immediately in order to afford adequate fire protection and to protect the public health, the governing body is

hereby authorized to issue interest-bearing time warrants to pay for the completion of the extensions and improvements. Such warrants may be issued without the prerequisite of an election and without giving notice of intention to issue warrants.

Sec. 2. In the event of conflict between any of the provisions of this Act and any provisions of a city charter, the provisions of this Act shall prevail. Provided, however, that no city shall issue warrants under this law to a greater amount than Thirty Thousand (\$30,000.00) Dollars, that such warrants shall bear not more than four (4%) per cent interest, and shall mature in not to exceed five (5) years from their date, and provided further that no ordinance, authorizing the issuance of such warrants, shall be passed after ninety (90) days after the effective date of this Act; but the limitations contained in this sentence shall not restrict the authority conferred by any of the provisions of Section 6 of the Bond and Warrant Law of 1931.¹ Acts 1941, 47th Leg., p. 550, ch. 347.

¹ Article 2368a.

Filed without the Governor's signature, May 28, 1941.

Effective May 28, 1941.

Section 3 of the Act of 1941 provided that the Act should take effect immediately.

Title of Act:

An Act authorizing cities to issue interest-bearing time warrants for the completion of waterworks extensions and improvements where the governing body finds that proceeds from sale of bonds are not sufficient for the purpose and that such extensions and improvements must be completed immediately in order to afford adequate fire protection and to protect the public health; providing that such warrants may be issued without the prerequisite of an election or notice of intention to issue warrants; providing that this Act shall prevail in case of conflict with provisions of

city charter; providing that no city shall issue warrants under this law to a greater amount than Thirty Thousand (\$30,000.00) Dollars, that such warrants shall bear not more than four (4%) per cent interest and shall mature in not to exceed five (5) years from their date; providing that no warrants shall be authorized to be issued under this law after ninety (90) days from the effective date hereof; containing a provision that said limitations shall not restrict authority conferred by Section 6 of the Bond and Warrant Law of 1931; enacting other provisions relating to the subject; and declaring an emergency. Acts 1941, 47th Leg., p. 550, ch. 347.

2. ENCUMBERED CITY SYSTEM

Art. 1113. Income, records, reports, penalty

Partial Repeal. Section 6 of Acts 1941, 47th Leg., p. 421, ch. 251, authorizing the issuance of refunding bonds by cities of 525,000 or over, read as follows: "All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and particularly that expression contained in Article 1113, Revised Civil Statutes of Texas which reads, 'No part of

the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid,' is hereby specially repealed."

Application to certain cities and towns issuing refunding bonds, see article 1118n—3.

Art. 1115. Control

Control in Cities of 6,700-6,900

Acts 1941, 47th Leg., p. 674, ch. 416, reads as follows:

"Section 1. That the management and control of any electric light, gas, water, or sewer system owned by any city in Texas with a population of not less than six thousand, seven hundred (6,700) nor more than six thousand, nine hundred (6,900), according to the last United States Census, and financed by the issuance of revenue bonds by such cities, shall, so long as any of such revenue bonds issued shall be outstanding and unpaid, by the terms of such encumbrance or by ordinance, be placed in

the hands of a Board of Trustees to be named in such encumbrance or by such ordinance, consisting of not more than five (5) members, one of whom shall be the Mayor of such city or town. The compensation of such Trustees shall be fixed by such contract or by ordinance, but shall never exceed five (5) per cent of the gross receipts of such system or systems in any one year. The terms of office of such Board of Trustees, their powers and duties, the manner of exercising the same, the selection of their successors and all matters pertaining to their organization and duties may be specified in such con-

tract of encumbrance or by ordinance. In all matters where such contract or ordinance is silent, the laws and rules governing the Council of such city or town shall govern said Board of Trustees so far as applicable.

"Sec. 2. Where the governing body of any city or town, owning and operating any such system or systems, has heretofore by ordinance created a Board of Trustees for the control and management of any such system or systems where there is no en-

cumbrance of the physical properties, but only an encumbrance of the net revenue of the system or systems, the action of the Council of any such city or town in so creating a Board of Trustees and fixing their powers, duties, compensation and terms of office as provided in Section 1 hereof, is hereby ratified, confirmed, legalized, approved, and validated."

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Art. 1118j—1. Validation of bond proceedings in cities or towns over 5,000 to help finance improvements for which loan or grant from Federal government was made

Section 1. That all proceedings heretofore had by the governing bodies of all cities and towns in the State of Texas operating under the provisions of the General Laws of Texas and having a population of more than five thousand (5,000), and wherein it has become necessary to supplement funds providing for the erection of certain public improvements for which a loan or grant has been made by any agent or agency of the United States Government, by the issuance and sale of additional bonds to aid in the financing of such certain public improvements, including the orders and notices of elections, the conduct and returns of elections, and the canvassing of such returns of such elections, are hereby in all things fully validated, confirmed, approved, and legalized, including among others, instances wherein there have been irregularities in the giving of notice of elections, notwithstanding the fact that the notice of election was not published on the same day in each of two successive weeks, and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities or towns, and all tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds are hereby in all things validated, confirmed, approved, and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or obligations issued thereunder, where the validity thereof has been contested or attacked in any suit or pending litigation. Acts 1941, 47th Leg., p. 602, ch. 370.

Approved and effective May 22, 1941.

Section 3 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating and approving all acts of the governing bodies of cities and towns of the State of Texas operating under the provisions of the General Laws of Texas and having a population of more than five thousand (5,000) in the issuance and sale of bonds to aid in financing certain public improvements for which a loan or grant has been made by any agent or agency of the United States Government, including elec-

tion orders, notices of elections, returns of elections, and orders canvassing election returns, including among others, instances wherein there have been irregularities in the giving of notice of elections, notwithstanding the fact that the notice of election was not published on the same day in each of two successive weeks; validating such bonds and the tax levies made for the payment of such bonds; providing the provisions hereof shall not apply to any such proceedings or obligations the validity of which has been contested in any pending suit or litigation; and declaring an emergency. Acts 1941, 47th Leg., p. 602, ch. 370.

Art. 1118n—3. Refunding bonds, issuance by cities operating under general law and owning waterworks or sewer system

Section 1. This Act shall be applicable to any city or town operating under the General Law relating to cities and towns, and which does not operate under a special or home rule charter, and which owns and oper-

ates either its waterworks or its sanitary sewer system, or both, and the principal amount of whose bond and time warrant indebtedness is in an aggregate amount exceeding thirty (30) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purpose of this Act shall be an "eligible" city.

Sec. 2. Any eligible city is authorized to issue refunding bonds to be supported by an ad valorem tax and by a pledge to the payment of the principal and interest thereof, of all or a stipulated part of the net income from the operation of its waterworks system or its sewer system, or both. No such city shall be authorized to exercise the additional powers conferred by this Act unless it obtains a reduction in the principal amount of its indebtedness to the extent of not less than twenty-five (25) per cent. Such city shall not be permitted to deliver such refunding bonds unless and until it shall have obtained consent to such refunding by the holders of at least sixty-six and two-thirds ($66 \frac{2}{3}$) per cent of aggregate principal amount of its outstanding indebtedness which sixty-six and two-thirds ($66 \frac{2}{3}$) per cent shall include not less than one hundred (100) per cent of the revenue bonds, if any, outstanding against said system or systems, or unless such refinancing plan shall have been made effective in Composition proceedings instituted by such city under Title 11, Chapter 9 of the United States Code and Amendments thereto.¹

Before any income from such utility or utilities shall be used to pay the principal and interest of said refunding bonds the expenses of operation and maintenance shall have first been provided substantially in accordance with the provisions of Article 1113 of the Revised Civil Statutes of Texas, 1925, as amended, which is applicable to the income of encumbered utility systems. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city after making said pledge of such utility income to establish and maintain utility rates, which, together with taxes levied for the payment of such bonds, will be adequate to yield revenues sufficient to operate and maintain said utility system or systems and to fulfill the city's pledge of such income.

Sec. 3. Such city also shall refund par for par, all of its outstanding revenue bonds which are secured by a pledge of the revenues of either or both of such systems, if any such revenue bonds are outstanding, and bonds issued to refund such revenue bonds may be included in any such refunding issue, authorized by this Act.

Sec. 4. The refunding bonds issued under this Act shall be fully negotiable and shall be issued in the same manner as refunding bonds for the purpose of taking up outstanding bonds issued under the provisions of Title 22² and Title 28³ of the 1925 Revised Civil Statutes of Texas and amendments thereto. No notice of intention to issue refunding bonds and no election for the issuance of such bonds shall be required. No such refunding bonds shall be registered in the office of the Comptroller and delivered by him unless and until he shall have received and cancelled in lieu thereof bonds or time warrants in the proportion prescribed in the ordinances authorizing the issuance of such refunding bonds, and in accordance with this Act. The procedure prescribed in Articles 709 to 715 of the Revised Civil Statutes of Texas, 1925, in reference to examination and approval of the bonds by the Attorney General shall be applicable to bonds issued under this Act.

Sec. 5. This Act shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with the provisions of any other law, general or special, the

provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail. Acts 1941, 47th Leg., p. 388, ch. 729.

1 11 U.S.C.A. § 401 et seq.

2 Article 701 et seq.

3 Article 961 et seq.

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Section 6 of Act of 1941, declared an emergency and provided that the Act should take effect from and after its passage.

Cities operating under charters, refunding bonds supported by ad valorem tax or by pledge of income of utilities, see article 802b—2.

Title of Act:

An Act authorizing eligible cities and towns as defined herein to issue refunding bond; prescribing the method of their issuance; providing the methods of securing and paying such bonds; enacting other provisions relating to the subject; making this Act cumulative of other laws; providing that it shall take precedence over other laws, general or special, in conflict or inconsistent herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 388, ch. 729.

Art. 1118p. Refunding bonds in cities of 525,000 or more; payment from water or sewer revenues

Section 1. This Act shall apply only in counties that have a population of five hundred and twenty-five thousand (525,000) or more, according to the last Federal Census. Any city or town that has issued bonds, warrants, notes, or other obligations payable from the revenues of the water systems and/or sewer systems and/or sewage disposal plants of such city or town, all or a portion of which bonds, warrants, notes, or other obligations are outstanding, may issue new bonds of such city or town payable from the net revenues of the water systems and/or sewer systems and/or sewage disposal plants of such city or town for the purpose of refunding such outstanding bonds, warrants, notes, or other obligations and for the purpose of further building, improving, enlarging, extending, and/or repairing such systems, or any one of them, and may pledge the net revenues thereof to pay the interest on and principal of such refunding and further construction bonds, and in the discretion of the governing body of such city or town, may mortgage and encumber the physical properties of such system or systems, as the case may be, for that purpose, and grant a franchise to the purchaser under foreclosure to operate such system or systems, as the case may be, for a period of not exceeding twenty (20) years after purchase, subject to all the laws regulating the same then in force.

Sec. 2. Such new bonds may be called _____ Refunding and Further Construction Bonds, and may be made to mature serially or otherwise as the governing body of such city or town may direct not more than thirty (30) years from their date, and may bear interest at not exceeding five (5) per cent per annum; provided such new bonds shall not bear a higher rate of interest than the bonds, warrants, notes, or other obligations that are refunded thereby.

Sec. 3. Before the bonds herein authorized are issued, they shall be authorized by a majority vote of the duly qualified property taxpaying voters of such city or town at an election ordered and held for that purpose, which election shall be ordered and held in the same manner as required by law for holding elections to authorize the issuance of tax supported bonds.

Sec. 4. Such bonds and the record authorizing the same shall be submitted to the Attorney General of Texas and approved by him, substantially the same as is required in the issuance of tax supported bonds. When such bonds shall have been approved by the Attorney General,

they shall be turned over to the Comptroller of the State of Texas and by him registered in the following order:

First, the portion of such new bonds equal in principal amount to the outstanding bonds, warrants, notes, and other obligations that are being refunded thereby, shall be registered only upon surrender and cancellation of such outstanding bonds, warrants, notes, and other obligations that are being refunded thereby, until all of such outstanding bonds, warrants, notes, and other obligations shall have been surrendered and cancelled.

Second, after all such outstanding revenue bonds, warrants, notes, and other obligations of such city or town shall have been surrendered and cancelled, and an equal amount of such new bonds registered and delivered in lieu thereof, then the balance of such new bonds shall be registered by the Comptroller and delivered to the Mayor of such city or town, or upon his order, and may be sold by the governing body of such city or town and the proceeds thereof expended in further building, improving, enlarging, extending, and/or repairing such system or systems, as the case may be.

Sec. 5. This Act is cumulative, and in addition to all other statutes authorizing the issuance of revenue bonds of cities and towns, and is intended to repeal only such laws and parts of laws as are in conflict herewith.

Sec. 6. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and particularly that expression contained in Article 1113, Revised Civil Statutes of Texas which reads, "No part of the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid," is hereby specially repealed. Acts 1941, 47th Leg., p. 421, ch. 251.

Filed without the Governor's signature,
May 12, 1941.

Effective May 21, 1941.

Section 7 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act operative only in counties of five hundred and twenty-five thousand (525,000) population or more according to the latest Federal Census; authorizing cities and towns that have issued bonds, warrants, notes, or other obligations payable from revenues of the water systems and/or sewer systems and/or sewage disposal plants to issue new bonds of such cities or towns payable from the net revenues of the water systems and/or sewer systems and/or sewage disposal plants for the purpose of refunding such outstanding bonds, warrants, notes, or other obligations and for the purpose of further building, improving, enlarging, extending, and/or repairing such systems and to pledge the net revenues thereof to pay the interest on and principal of such refunding and further construction bonds, and authorizing the governing body of such city or town to mortgage and encumber the physical properties of such systems for that purpose and to grant a franchise to the purchaser under foreclosure to operate such system or systems for a period of not

exceeding twenty (20) years after purchase, subject to all the laws regulating the same then in force; providing that such new bonds may be called Refunding and Further Construction Bonds; providing that such new bonds may be made to mature as directed by the governing body not more than thirty (30) years from their date and may bear interest at not exceeding five (5) per cent per annum, providing such new bonds shall not bear a higher rate of interest than the securities that are refunded thereby; providing that such bonds shall not be issued until authorized by majority vote of the duly qualified property taxpaying voters of such city or town at an election ordered and held for that purpose, and providing such election shall be held in the same manner as required by law for holding elections to authorize the issuance of tax supported bonds; providing that such bonds shall be approved by the Attorney General and registered by the Comptroller of Public Accounts, and further providing the restrictions and limitations under which such new bonds may be registered by the Comptroller; providing that this Act is cumulative and in addition to all other statutes on the subject of such revenue bonds and repeals only such laws and parts of laws as are in conflict herewith; repealing all laws and parts of laws in conflict herewith and particularly that expression contained in Arti-

cle 1113, Revised Civil Statutes of Texas which reads, "No part of the income of any such systems shall ever be used to pay any other debt, expense or obligation of such

city or town, until the indebtedness so secured shall have been finally paid"; and declaring an emergency. Acts 1941, 47th Leg., p. 421, ch. 251.

CHAPTER ELEVEN—TOWNS AND VILLAGES

Art. 1133. 1033, 579, 506 May be incorporated

When a town or village contains more than two hundred (200) and less than ten thousand (10,000) inhabitants, it may be incorporated as a town or village in the manner prescribed in Chapter 11, Title 28, of the Revised Civil Statutes of Texas, 1925, and all amendments thereto. As amended Acts 1941, 47th Leg., p. 68, ch. 55.

Approved and effective March 6, 1941.

Acts 1941, 47th Leg., p. 68, ch. 55, §§ 2, 3 reads as follows:

"Sec. 2. This Act shall be cumulative of all other laws, but in the event any of its provisions should conflict with the provisions of any other law, the provisions hereof shall prevail to the extent of such conflict.

"Sec. 3. This Act is declared to be severable and, in the event any provision

hereof shall be declared void or unconstitutional, it is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination or provisions in any respect, and said remaining sections shall be in full force and effect."

Section 4 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THIRTEEN— HOME RULE

Art. 1174a. Validating charter or charter amendments

Validation of incorporation of City of Uvalde

Acts 1941, 47th Leg., p. 416, ch. 246, read as follows:

"Section 1. The City of Uvalde, Texas, a city having a population in excess of five thousand (5,000), heretofore incorporated and/or attempted in good faith to be incorporated in accordance with Chapter 13, Title 28, of the Revised Civil Statutes of Texas, 1925 [articles 1165-1182], and which has in good faith functioned as an incorporated city since September 18, 1934, the date of its incorporation or attempted incorporation, is hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such city shall not be held invalid on account of irregularities in the appointment of a charter commission or lack of authority of any officer or governing body of said city to appoint a charter commission to formulate and submit a charter for said city or in the manner of formulating the charter or by any lack of authority of any commission in the preparation and submission to any governing body of the City of Uvalde of said charter and/or any irregularities in the petition for election, order for election, notice of election, the manner of submitting the charter to the voters in the election and/or failure to divide the charter into sections, parts, articles, or subjects and cause the voters

to vote thereon section by section separately, or part by part separately, or article by article separately, or subject by subject separately, and/or any irregularities in the return of the election, order declaring results of the election or in including any territory within the corporate limits of the city or on account of the incorporation election having been ordered and/or the returns thereof canvassed and results declared by a person without lawful authority so to do or on account of other irregularities in complying with or failure to comply with Chapter 13, Title 28, of the Revised Civil Statutes of Texas, 1925, or any article thereof or any amendment thereof in the incorporation proceedings.

"Sec. 2. All governmental proceedings performed, enacted, and/or instituted and/or ordained in good faith by the governing body of the City of Uvalde, Texas, since its incorporation or attempted incorporation, respectively, are hereby in all respects validated as of the respective dates of such proceedings, enactment, institution, and/or ordination, and such governmental procedure, enactment, institution and/or ordination shall be effective the same as if such city had been regularly incorporated in the first instance."

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Art. 1175. Enumerated powers

Appropriations for advertising, see article 2352d.

Board of Development, see article 2352d.

Art. 1176a. Code of Civil or Criminal ordinances in cities of more than 10,000

Section 1. That any city in this State having a population of more than ten thousand (10,000), according to the last preceding Federal Census, whether incorporated under General or Special Law, shall have the power to codify its civil and criminal ordinances and adopt a civil and criminal code of ordinances, together with appropriate penalties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisite of law. As amended, Acts 1941, 47th Leg., p. 1352, ch. 614, § 1.

Approved and effective July 9, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

Art.

1269h—1. Validating bonds issued to acquire lands for airports by cities and counties [New].

Art. 1269h. Airports, maintenance and operation

Section 1. A—That the governing body of any incorporated city in this State may receive through gift or dedication, and is hereby empowered to acquire, by purchase without condemnation or by purchase through condemnation proceedings, and thereafter maintain and operate as an airport, or lease, or sell, to the Federal Government, tracts of land either within or without the corporate limits of such city and within the county in which such city is situated, and the Commissioners' Court of any county may likewise acquire, maintain and operate for like purpose tracts of land within the limits of the county.

B—That the governing body of any incorporated city in this State may receive through gift or dedication, and is hereby empowered to acquire by purchase without condemnation, and thereafter maintain and operate as an airport, or lease, or sell to the Federal Government, tracts of land without the county in which such city is situated, provided said tracts are not within five (5) miles of another incorporated city that has a population of more than fifteen hundred (1500) people, according to the last preceding Federal Census.

C—That the governing body of any incorporated city in this State may, and is hereby empowered, to acquire through condemnation proceedings, tracts of land located without the county in which said city is located, provided said tracts of land are within six (6) miles of the county boundary of the county in which said city is located, and are not within five (5) miles of another incorporated city having a population in excess of fifteen hundred (1500) people, according to the last preceding Federal Census; and that said city may thereafter maintain and operate as an airport, or lease, or sell, said tracts to the Federal Government; provided, however, that the grant herein made to acquire land through condemnation proceedings, without the county in which said

city is located, shall expire on December 31, 1942; but that tracts of land acquired prior to that date, and under the authority of this Act, may continue to be operated, leased, or sold, as provided in this Act.

D—In addition to the power herein granted, the Commissioners' Courts of the several counties of this State are hereby authorized to lease any airport that may be acquired by the county, as herein provided, to any incorporated city or municipality within such county, or to the Federal Government, for the purpose of maintaining and operating an airport; and provided further that any incorporated city having acquired land for an airport, or an airport, under the authority of this Act, shall have the right to lease said land or said airport to the county in which said incorporated city is located.

E—In addition to the power which it may now have, the governing body of an incorporated city shall have the power to sell, convey, or lease, all or any portions of any airports heretofore established or that may be hereafter established, or any land acquired under the provisions of this Act, to the United States of America for any purpose deemed by the Government of the United States necessary for National Defense, or for air mail purposes, or any other public purpose, or to the State of Texas, or any branch of the State Government, or to any other person, firm, or corporation, to carry out any purpose necessary or incidental to National Defense or training incidental thereto; and that such governing body shall provide rules and regulations for the proper use of any such airports in connection with the purposes stated herein. As amended Acts 1941, 47th Leg., p. 65, ch. 51, § 1; Acts 1941, 47th Leg., p. 196, ch. 142, § 1.

Approved April 15, 1941.

Effective April 15, 1941.

Section 2 of the amendatory Act of 1941, p. 196, ch. 142, read as follows: "If any section or sections, clause, sentence or provision of this Act should, for any reason, be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act, not so held, and all that portion not held invalid shall remain in full force and effect."

Section 2 of the amendatory Act of 1941, p. 65, ch. 51, and section 3 of amendatory Act of 1941, p. 196, ch. 142, declared an emergency and provided that the Act should take effect from and after its passage.

Agricultural and Mechanical College, authority of Board of Directors to acquire and operate airports, see art. 2615c.

Sec. 2. (a) For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners Court of any county, falling within the terms of such Section, may issue negotiable bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925.¹

(b) In addition to the powers herein granted, the Commissioners Courts of counties having a population of not less than fifteen thousand (15,000) and not more than fifteen thousand, two hundred and fifty (15,250), according to the last preceding Federal Census, are hereby authorized to issue time warrants for the purposes herein stated, but the Commissioners Court of any such county proposing to issue such warrants shall comply with the provisions of Chapter 163, Acts of the Forty-second Legislature,² with reference to notice to issue such warrants and with reference to the levy and collection of taxes in payment thereof, and the

right to referendum election therein shall apply. As amended, Acts 1941, 47th Leg., p. 1345, ch. 609, § 1.

¹ Article 701 et seq.

² Article 2368a.

Approved and effective July 9, 1941.

Section 2 of the amendatory Act of 1941 read as follows: "This Act shall not repeal any law already in existence, but

any such existing law shall and does remain in full force and effect."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1269h—1. Validating bonds issued to acquire lands for airports by cities and counties

In instances wherein elections have been held or called prior to the effective date of this Act bonds otherwise issued in accordance with law and for purposes permitted under said Chapter 83, Acts of the First Called Session of the Forty-first Legislature,¹ are hereby validated, notwithstanding the fact that the proceeds from the sale of said bonds either have been used or may be used to purchase lands for airport purposes, which together with lands already owned by any such city for airport purposes will exceed six hundred and forty (640) acres; provided, however, that this Section shall not apply to any bonds the validity of which has been attacked in any litigation pending at the time this Act becomes effective. Acts 1941, 47th Leg., p. 79, ch. 64, § 1.

¹ Article 1269h.

Approved and effective March 15, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating certain bonds hereto-

fore authorized to be issued under the authority of Chapter 83 of the Acts of the First Called Session of the Forty-first Legislature in reference to acquisition of lands by cities and counties for airport purposes; and declaring an emergency. Acts 1941, 47th Leg., p. 79, ch. 64.

Art. 1269j. Additional powers of certain cities

Section 1. In addition to the powers which it may now have, any City having a population of more than forty thousand (40,000) inhabitants, according to the last preceding Federal Census, shall have power (a) to own, maintain and operate an airport, either within or without, or partially within and partially without, the corporate limits of such city; (b) to construct, acquire by gift, purchase, lease or the exercise of the right of eminent domain, improve, enlarge, extend or repair any airport, and to acquire by gift, purchase, lease or the exercise of the right of eminent domain, lands or rights in land in fee simple in connection therewith; (c) to borrow money and issue its bonds or warrants to finance in whole or in part the cost of the acquisition, construction, improvement, enlargement, extension or repair of any airport; (d) to prescribe and collect rates, fees, rents, tolls or other charges for the service and facilities afforded by such airport; and (e) to pledge to the punctual payment of said warrants and interest thereon all or any part of the income, rents, revenues, tolls or other receipts derived from the operation of such airport, in addition to the taxes which shall be levied annually, for the payment of the principal and interest on such warrants. An airport within the meaning of this Act shall include all lands and buildings or other improvements necessary or convenient in the establishment and operation of an airport, and shall include such lands and improvements as are necessary to assemble or manufacture aircraft for military or naval uses, or for any other governmental purpose, and to provide housing and office space for employees necessary or

incidental to such purposes. As amended Acts 1941, 47th Leg., p. 67, ch. 54, § 1.

Approved and effective March 6, 1941.
Section 2 of amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

Sale or Lease of Airport

Sec. 7. The governing body of the City shall have the power to sell, convey, or lease all or any portion of such airports heretofore established, or that may be hereafter established, to the United States of America for the purpose of air mail or any other public purpose, including the purpose of runways for the landing of aircraft, the assembling or manufacture of aircraft or aircraft parts, or any other purpose deemed by the Government of the United States necessary for the national defense, or to the State of Texas or any branch of the State Government, or to any municipality for any such purpose, or to any other person, firm or corporation to carry out any necessary or incidental purpose; and that such governing body shall provide rules and regulations for the proper use of any such airports, whether used for pleasure, experiment, exhibition, commercial purpose, or for the national defense. As amended Acts 1941, 47th Leg., p. 67, ch. 54, § 1.

Approved and effective March 6, 1941.

CHAPTER TWENTY-ONE—HOUSING

Art.

1269k—2. Validation of establishment and acts of housing authorities [New].

1269k—3. Validation of acts, bonds, contracts, etc., of housing authorities in counties of 90,000 to 100,000; national defense activities [New].

Art.

1269k—4. Projects by housing authorities to make available dwellings for persons in national defense activities; declaration of necessity [New].

Art. 1269k. Housing Authorities Law

Eminent domain

Sec. 12. An authority shall have the right to acquire by the exercise of the power of eminent domain any interest in real property, including a fee simple title thereto, which it may deem necessary for its purposes under this Act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and Acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the State, or any political subdivision thereof may be acquired without its consent. As amended, Acts 1941, 47th Leg., p. 926, ch. 563, § 1.

Approved July 2, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the amendatory act of 1941

provides that the powers conferred by that act shall be in addition and supplemental to the powers conferred by any other law.

Sections 4 and 5 were identical with sections 25 and 24 of the Act of 1937, as amended, respectively.

Section 6 declared an emergency and provided that the Act should take effect from and after its passage.

Housing authorities in counties

Sec. 23a. In each county of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the county; provided, however, that such housing authority shall not transact any business or exercise its powers hereunder until or unless the Commissioners Court of such county, by proper resolution shall declare at any time hereafter that there is need for a housing authority to function in such county, which declaration shall be made by such Commissioners Court for such county in the same manner and subject to the same conditions as the declaration of the governing body of a city required by Section 4 of the Housing Authorities Law for the purpose of authorizing a housing authority created for a city to transact business and exercise its powers (except that the petition referred to in said Section 4 shall be signed by one hundred qualified voters and residents of such county).

The commissioners of a housing authority created for a county may be appointed and removed by the Commissioners Court of the county in the same manner as the commissioners of a housing authority created for a city may be appointed and removed by the Mayor, and except as otherwise provided herein, each housing authority created for a county and the commissioners thereof, within the area of operation of such housing authority as hereinafter defined, shall have the same functions, rights, powers, duties, immunities, privileges, and limitations provided for housing authorities created for cities and the commissioners of such housing authorities, in the same manner as though all the provisions of law applicable to housing authorities created for cities were applicable to housing authorities created for counties; provided, that for such purposes the term "Mayor" or "governing body" as used in the Housing Authorities Law shall be construed as meaning "Commissioners Court", and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context; and provided further that a housing authority created for a county shall not be subject to the limitations provided in clause (c) of Section 10 of the Housing Authorities Law with respect to housing projects for farmers of low income.

The area of operation of a housing authority created for a county shall include all of the county in which it is created except that portion of the county which lies within the territorial boundaries of any city. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Creation of regional housing authority

Sec. 23b. If the Commissioners Court of each of two (2) or more contiguous counties by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority shall thereupon exist for all of such counties and exercise its powers and other functions in such counties; and thereupon each county housing authority created for each of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided that the Commissioners Court of a county shall not adopt a resolution as aforesaid if there is a county housing authority created

for such county which has any obligations outstanding unless first, all obligees of such county housing authority and parties to the contracts, bonds, notes, and other obligations of such county housing authority agree with such county housing authority to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two (2) conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they may have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed with the clerk of the county where such real property is, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The Commissioners Court of each of two (2) or more contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such Commissioners Court finds (and only if it finds) (a) that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and (b) that a regional housing authority would be a more efficient or economical administrative unit than the housing authority of such county to carry out the purposes of the Housing Authorities Law in such county.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have become created as a public body corporate and politic and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the Commissioners Court of each of the counties creating the regional housing authority declaring the need for the regional housing authority. Each such resolution shall be deemed sufficient if it declares that there is need for the regional housing authority and finds in substantially the foregoing terms (no further detail being necessary) that the conditions enumerated above in (a) and (b) exist. A copy of such resolution of the Commissioners Court of a county, duly certified by the county clerk of such county, shall be admissible in evidence in any suit, action, or proceeding. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Area of operation of regional housing authorities

Sec. 23c. The area of operation of a regional housing authority shall include all of the counties for which such regional housing authority is created and established except that portion of the counties which lies within the territorial boundaries of any city.

The area of operation of a regional housing authority shall be increased from time to time to include one or more additional counties not already within a regional housing authority (except such portion or portions of such additional county or counties which lie within the territorial boundaries of any city) if the Commissioners Court of each of the counties then included in the area of operation of such regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties each adopt a resolution declaring that there is a need for the inclusion of such additional county or counties in the area of operation of such regional housing authority. Upon the adoption of such resolutions, the county housing authority created for each such additional county shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided, however, that such resolutions shall not be adopted if there is a county housing authority created for any such additional county which has any obligations outstanding unless first, all obligees of any such county housing authority and parties to the contracts, bonds, notes, and other obligations of any such county housing authority agree with such county housing authority and the regional housing authority to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority and the commissioners of such regional housing authority adopt resolutions consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two (2) conditions are complied with and the area of operation of such regional housing authority is increased to include such additional county, as hereinabove provided, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they may have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed with the clerk of the county where such real property is, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The Commissioners Court of each of the counties in the regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties shall by resolution declare that there is a need for the addition of such county or counties to the regional housing authority, if (a) the Commissioners Court of each such additional county or counties finds that

insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and (b) the Commissioners Court of each of the counties then included in the area of operation of the regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties find that the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Housing Authorities Law if the area of operation of the regional housing authority shall be increased to include such additional county or counties.

In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase of its area of operation.

In determining whether dwelling accommodations are unsafe or insanitary under this or the preceding Section, the Commissioners Court of a county shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

No governing body of a county shall adopt any resolution authorized by this or the preceding Section unless a public hearing has first been held. The clerk of such county shall give notice of the time, place, and purpose of the public hearing at least ten days prior to the day on which the hearing is to be held, in a newspaper published in such county, or if there is no newspaper published in such county, then in a newspaper published in the State and having a general circulation in such county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such county and to all other interested persons. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Commissioners of regional housing authority

Sec. 23d. When a regional housing authority has been created as provided above, the Commissioners Court of each county included in such regional housing authority shall thereupon appoint one person as a commissioner of the regional housing authority. When the area of operation of a regional housing authority is increased to include an additional county or counties as provided above, the Commissioners Court of each county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The Commissioners Court of each such county shall thereafter appoint each person to succeed such commissioner of the regional housing authority. A certificate of the appointment of any such commissioner shall be filed with the clerk of the county, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. If a regional housing authority includes only two counties, the commissioners of such authority appointed by the Commissioners Court of such counties shall appoint one additional commissioner to such authority. The commissioners of such authority appointed by the Commissioners Court of such counties shall likewise appoint each person to succeed such additional commissioner; provided that the term of office of such person begins during the terms of office of the commissioners appointing him; and provided further that no person shall be appointed to succeed such additional commissioner in the event

the area of operation of the regional housing authority is increased to include more than two counties. A certificate of the appointment of any such additional commissioner of such regional housing authority shall be filed with the other records of the regional housing authority and shall be conclusive evidence of the due and proper appointment of such additional commissioner. The commissioners of a regional housing authority shall be appointed for terms of two (2) years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his successor has been appointed and has qualified, except as otherwise provided herein.

For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the Commissioners Court appointing him, or in the case of the commissioner appointed by the commissioners of the regional housing authority, by such commissioners; provided that such commissioner shall be removed only after he shall have been given a copy of the charges against him at least ten (10) days prior to the hearing thereon and provided that such commissioner shall have had an opportunity to be heard in person or by counsel. In the event of the removal of a commissioner by the Commissioners Court appointing him, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county; and in the case of the removal of the commissioner appointed by the commissioners of the regional housing authority, such record shall be filed with the other records of the regional housing authority.

The commissioners appointed as aforesaid shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

The commissioners of a regional housing authority shall elect a chairman from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Powers of regional housing authority

Sec. 23e. Except as otherwise provided herein, a regional housing authority and the commissioners thereof shall, within the area of operation of such regional housing authority, have the same functions, rights, powers, duties, privileges, immunities and limitations provided for housing authorities created for cities or counties and the commissioners of such housing authorities in the same manner as though all the provisions of law applicable to housing authorities created for cities or counties were applicable to regional housing authorities; provided, that for such purposes the term "Mayor" or "governing body" as used in the Housing Authorities Law shall be construed as meaning "Commissioners Court" and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context; and provided further that a regional housing authority shall not be subject to the limitations provided in clause (c) of Section 10 of the Housing Authorities Law with respect to housing projects for farmers of low income. A regional housing authority shall have power to select any appropriate corporate name. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Rural housing projects

Sec. 23f. County housing authorities and regional housing authorities are specifically empowered and authorized to borrow money, accept grants

and exercise their other powers to provide housing for farmers of low income. In connection with such projects, any such housing authority may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this Act. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this Section shall be construed as limiting any other powers of any housing authority. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Housing applications by farmers

Sec. 23g. The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a county housing authority or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Farmers of low income defined

Sec. 23h. "Farmers of low income," as used in this Act, shall mean persons or families who at the time of their admission to occupancy in a dwelling of a housing authority: (1) live under unsafe or insanitary housing conditions; (2) derive their principal income from operating or working upon a farm; and (3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the housing authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing, without overcrowding. Added, Acts 1941, 47th Leg., p. 926, ch. 563, § 2.

Art. 1269k—2. Validation of establishment and acts of housing authorities

Section 1. Establishment and Organization. The establishment and organization of housing authorities pursuant to the provisions of the Housing Authorities Law (House Bill Number 821, Chapter 462, page 1144, Regular Session of the Forty-fifth Legislature, as amended by House Bill Number 102, Chapter 41, page 1924, Second Called Session of the Forty-fifth Legislature, as amended by House Bill Number 834, Chapter 1, page 427, Regular Session of the Forty-sixth Legislature, and any amendments thereto),¹ together with all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Sec. 2. Contracts and Undertakings. All contracts, agreements, obligations, and undertakings of housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance, or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and

annual contributions, contracts, and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and unsanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Sec. 3. Notes and Bonds. All proceedings, acts, and things heretofore undertaken, performed or done in or for the authorization, issuance, sale, execution, and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority. Acts 1941, 47th Leg., p. 900, ch. 554.

1 Article 1269k.

Approved June 30, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to declare valid and legal the establishment and organization of housing authorities, all bonds, notes, contracts, agreements, obligations, and undertakings of such housing authorities, and all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto; and declaring an emergency. Acts 1941, 47th Leg., p. 900, ch. 554.

Art. 1269k—3. Validation of acts, bonds, contracts, etc., of housing authorities in counties of 90,000 to 100,000; national defense activities

Section 1. The acts of any housing authority created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which is located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding Federal Census, in undertaking the development and administration of housing projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, are hereby validated, ratified, approved, and confirmed in all respects.

Sec. 2. All bonds, notes, contracts, agreements, and obligations of housing authorities created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which are located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding Federal Census, heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the Federal Government in) the development or administration of any housing project to assure the availability of safe and sanitary dwellings for persons engaged in national defense

activities, are hereby validated, ratified, approved, confirmed, and declared enforceable in all respects. Acts 1941, 47th Leg., p. 1301, ch. 576.

Filed without the Governor's signature, July 1, 1941.

Effective July 2, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate, ratify, approve, and confirm the acts of all housing authorities created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which are located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding

Federal Census, in undertaking the development and administration of housing projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, who would not otherwise be able to secure such dwellings within the vicinity thereof; and to validate, ratify, approve, confirm, and declare enforceable all bonds, notes, and obligations of such housing authorities issued for projects heretofore undertaken to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities; and declaring an emergency. Acts 1941, 47th Leg., p. 1301, ch. 576.

Art. 1269k—4. Projects by housing authorities to make available dwellings for persons in national defense activities; declaration of necessity

Section 1. It is hereby found and declared that the national defense program involves large increases in the military forces and personnel in this State, a great increase in the number of workers in already established manufacturing centers, and the bringing of a large number of workers and their families to new centers of defense industries in the State; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this State, which impedes the national defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons, to enable the rapid expansion of national defense activities in this State and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national defense program in this State. It is further declared to be the purpose of this Act to authorize housing authorities to do any and all things necessary or desirable to secure the financial aid of the Federal Government, or to cooperate with or act as agent of the Federal Government, in the expeditious development and the administration of projects to assure the availability, when needed, of safe and sanitary dwellings for persons engaged in national defense activities.

Time limit for initiation of development; rights and powers of authority; definitions

Sec. 2. Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof; but no housing authority shall initiate the development of any such project pursuant to this Act after December 31, 1943.

In the ownership, development or administration of such projects, a housing authority shall have all the rights, powers, privileges and immunities that such authority has under any provision of law relating

to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this Act; and housing projects developed or administered hereunder shall constitute "housing projects" under the Housing Authorities Law, as that term is used therein; provided, that during the period (herein called the "National Defense Period") that a housing authority finds (which finding shall be conclusive in any suit, action or proceeding) that within its area of operation (as defined in the Housing Authorities Law), or any part thereof, there is an acute shortage of safe and sanitary dwellings, which impedes the national defense program in this State, and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national defense activities, any project developed or administered by such housing authority (or by any housing authority cooperating with it) in such area pursuant to this Act, with the financial aid of the Federal Government (or as agent for the Federal Government as hereinafter provided), shall not be subject to the limitations provided in Section 10 and the second sentence of Section 9 of the Housing Authorities Law;¹ and provided further, that, during the National Defense Period, a housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with any such projects. After the National Defense Period, any such projects owned and administered by a housing authority shall be administered for the purposes and in accordance with the provisions of the Housing Authorities Law.

¹ Article 1269k.

Cooperation with Federal Government; sale of project to Federal Government

Sec. 3. A housing authority may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the Federal Government, in the development or administration of projects by the Federal Government, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, and may undertake the development or administration of any such project for the Federal Government. In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities, a housing authority may sell (in whole or in part) to the Federal Government, any housing project developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the housing authority shall prescribe, and shall include provision for the satisfaction of all debts and liabilities of the authority relating to such project.

Cooperation with Federal Government by other state public bodies

Sec. 4. Any state public body, as defined in the Housing Cooperation Law (House Bill No. 820, Regular Session of the 45th Legislature, page 1141, as amended by House Bill No. 103, Second Called Session of the 45th Legislature, page 1940,¹ and any additional amendments thereto) shall have the same rights and powers to cooperate with housing authorities, or with the Federal Government, with respect to the development or administration of projects, to assure the availability of safe and sanitary dwellings for persons engaged in national defense

activities, that such state public body has pursuant to such Law for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income.

¹ Article 1269l.

Bonds as security for public deposits and as legal investments

Sec. 5. Bonds or other obligations issued by a housing authority for a project developed or administered pursuant to this Act, shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers, as bonds or other obligations issued pursuant to the Housing Authorities Law¹ for the development of a slum clearance or housing project for persons of low income.

¹ Article 1269k.

Validation of bonds, notes, contracts, and obligations

Sec. 6. All bonds, notes, contracts, agreements and obligations of housing authorities heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the Federal Government) in the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated and declared legal in all respects, notwithstanding any defects or irregularities therein, or any want of statutory authority.

Act as independent authorization

Sec. 7. This Act shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, as provided in this Act, and for a housing authority to cooperate with, or act as agent for, the Federal Government in the development or administration of similar projects by the Federal Government. In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income, or undertakings or projects of municipal or public corporations or political subdivisions, or agencies of the State. A housing authority may do any and all things necessary or desirable to cooperate with, or act as Agent for, the Federal Government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, and to effectuate the purposes of this Act.

Definitions

Sec. 8. (a) "Persons engaged in national defense activities," as used in this Act, shall include: enlisted men in the military and naval services of the United States and employees of the War and Navy Departments assigned to duty at military or naval reservations, posts or bases; and workers engaged, or to be engaged, in industries connected with, and essential to, the national defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Persons of low income," as used in this Act, shall mean persons or families who lack the amount of income which is necessary (as deter-

mined by the housing authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(c) "Development" as used in this Act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiations or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the Federal Government.

(d) "Administration," as used in this Act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the Federal Government.

(e) "Federal Government," as used in this Act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(f) The development of a project shall be deemed to be "initiated", within the meaning of this Act, if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the authority, or has contracted with the Federal Government, with respect to the exercise of powers hereunder, in the development of such project of the Federal Government for which an allocation of funds has been made prior to December 31, 1943.

(g) "Housing Authority", as used in this Act, shall mean any housing authority established or hereafter established pursuant to the Housing Authorities Law (House Bill No. 821, Regular Session of the 45th Legislature, page 1144, as amended by House Bill No. 102, Second Called Session of the 45th Legislature, page 1924, as amended by Section 2 of House Bill No. 834, Regular Session of the 46th Legislature, page 427, and any additional amendments thereto).¹

¹ Article 1269k.

Powers additional and supplemental

Sec. 9. The powers conferred by this Act shall be in addition, and supplemental, to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of a housing authority.

Partial invalidity

Sec. 10. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. Acts 1941, 47th Leg., p. 799, ch. 497.

Approved June 14, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 10 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to authorize housing authorities to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, who would not otherwise be able to secure such dwellings within the vicinity

thereof; to limit the initiation of the development of such projects until December 31, 1943; to authorize housing authorities to cooperate with or act as agents of the Federal Government in the development and administration of such projects of the Federal Government; to acquire or lease such projects and to sell certain projects to the Federal Government; to authorize public bodies to assist such projects of housing authorities and of the Federal Government; to make obligations issued for such projects of housing authorities legal investments and security for de-

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

posits; and to declare valid all bonds, notes and obligations of housing authorities issued for projects heretofore undertaken, to assure the availability of safe

and sanitary dwellings for persons engaged in national defense activities; and declaring an emergency. Acts 1941, 47th Leg., p. 799, ch. 497.

TITLE 29A—COMMISSIONERS ON UNIFORM LAWS [NEW]

Art. 1273a. Uniform State Laws, Commissioners on; term; duties

Section 1. That within thirty (30) days after the passage of this Act the Governor shall appoint not more than five (5) and not less than three (3) Commissioners to the National Conference of Commissioners on Uniform State Laws, who shall be members of the Bar of this State in good standing and learned in the law, and upon the death, resignation, or refusal to serve of any of the Commissioners so appointed, the Governor shall make an appointment to fill the vacancy so caused, such new appointment to be for the unexpired term of the original appointee.

Sec. 2. That each of said Commissioners shall hold office for a term of four (4) years, and until their successors are duly appointed. Said Commissioners shall receive no compensation for their services as Commissioners.

Sec. 3. That it shall be the duty of said Commissioners to attend the annual meetings of the National Conference of Commissioners on Uniform State Laws and of its Sections, and they shall do all in their power to promote uniformity in State laws, upon all subjects where uniformity may be deemed desirable and practicable. Said Commissioners shall, at the beginning of each Biennial Session of the Legislature of this State, make a report to the Governor and their recommendations to the Legislature. Acts 1941, 47th Leg., p. 655, ch. 396.

Approved May 31, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to provide for the appointment of Commissioners to the National Conference of Commissioners on Uniform State Laws; providing their terms of office; defining their duties; and declaring an emergency. Acts 1941, 47th Leg., p. 655, ch. 396.

TITLE 32—CORPORATIONS—PRIVATE

CHAPTER ONE—PURPOSES

Art. 1302. 1121, 642, 566 Purposes

83. To organize laborers, working men, wage earners, and farmers to protect themselves in their various pursuits; provided however, no charter shall be issued hereafter to laborers, working men, or wage earners, or amendment granted to a charter of a corporation previously created to organize laborers, working men, or wage earners, or that may be hereafter created hereunder to organize laborers, working men, or wage earners, by the Secretary of State to any person, association or corporation, for such purposes without an investigation first having been made by the Commissioner of Labor Statistics concerning such application, and a favorable recommendation made thereon by said Commissioner to the Secretary of State. It is expressly provided that no investigation or recommendation by the Commissioner of Labor Statistics shall be required or made of applications from farmers for a charter. As amended Acts 1941, 47th Leg., p. 350, ch. 190, § 1.

Approved May 2, 1941.

Effective May 2, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THREE—GENERAL PROVISIONS

Art. 1350. Repealed. Acts 1941, 47th Leg., p. 789, ch. 491, § 1. Eff. 90 days after July 3, 1941, date of adjournment.

Art. 1351. 1167 Penalty

Any corporation which shall violate any provision of Article 1348 or Article 1349, Revised Civil Statutes of Texas, 1925, shall on proof thereof in any Court of competent jurisdiction, forfeit its charter, permit or license, and all rights and franchises which it holds under, from or by virtue of the laws of this State.

Whenever it appears that the money, assets, property, or funds of a corporation have been issued, paid out, or used, in violation of any provision of said Articles 1348 or 1349, by any agent, attorney, director or officer of such corporation, it shall be considered the act of the corporation, unless, within one year from the date of such violation it has caused to be entered, through its board of directors on its records in this State, an order repudiating the wrong and permanently dismissing from its service all persons directly or indirectly connected with such violations. As amended Acts 1941, 47th Leg., p. 789, ch. 491, § 2.

Approved June 13, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 5 of the amendatory act of 1941 read as follows: "Should any part or provision of this Act be held invalid, it is hereby declared to be the legislative in-

tent that the remaining sections, provisions and portions shall not be affected thereby, but will remain effective after omitting such invalid provisions or parts."

Section 6 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 1352. Political contributions

(a) No corporation, domestic or foreign, and no officer, director, stockholder, employee or agent, acting in behalf of any corporation, shall

directly or indirectly give, pay, expend or contribute or promise to give, pay, expend or contribute any money or thing of value in order to aid or hinder the nomination or election of any person to public office in this State or any district, municipality, or political subdivision thereof, or in order to influence or affect the vote on any question to be voted upon by the qualified voters of this State or any district, municipality, or political subdivision thereof, provided, however, that:

(b) In any election in this State or any district, municipality, or political subdivision thereof, wherein the question to be voted upon directly affects the granting, refusing, existence or value of any franchise granted to a corporation which has the right of eminent domain, such corporation may present facts and arguments to the voters bearing upon such question by any lawful means of publicity and pay the expense thereof; provided, however, that all such means of publicity employed shall contain a clear statement that the same are sponsored and paid for by such corporation; and the use of any such means of publicity by such corporation which do not contain such statement shall subject such corporation to the penalties hereinafter provided. Provided that nothing in this subsection shall be construed as permitting any such corporation to directly or indirectly give, pay, expend, or contribute or promise to give, pay, expend, or contribute any money or thing of value in order to aid or hinder the nomination or election of any person to any public office in this State.

(c) If any corporation authorized by Section (b) hereof, or if any person, partnership or association makes any expenditure or incurs any obligation directly or indirectly for the purpose of influencing an election of the character described in Section (b) hereof, it shall be the duty of such corporation, person, partnership or association to file with the governing body of the political subdivision in which such election is held and also with the Secretary of State by mail, not more than ten (10) days nor less than five (5) days before the date of such election and also within ten (10) days after the date of such election, itemized, verified accounts correctly showing as of the date of filing, the amounts of money and description and value of all things given, paid, expended and contributed and the names of the recipients thereof and all amounts of money and description and value of all things promised or obligated to be given, paid, expended and contributed, and the names of the promisees thereof, by such corporation, person, firm or association, in connection with such election; all such accounts to be verified under oath by an officer of such corporation, or by such person or member of the partnership or association as the case may be; provided, however, that no such corporation, person, partnership or association may give, pay, expend, contribute or promise to give, pay, expend or contribute money and things of value of the total amount exceeding Seven Hundred and Fifty Dollars (\$750), or exceeding Twenty-five Dollars (\$25) for each one hundred population of the district, municipality or political subdivision according to the last preceding Federal Census in which such election is held, whichever amount is greater; provided further that such amounts expended may not, in fixing rates to be charged by such corporation, be charged as operating cost or capital. Any corporation, person, partnership or association failing to file the accounts as provided herein or filing an account which is false in any material respect, or violating the limitation on expenditures provided herein, shall be subject to the penalties hereinafter provided, but in no event shall any such corporation be authorized to spend more than Ten Thousand Dollars (\$10,000) in any one election.

(d) Any corporation which shall violate any provision of this Article shall be subject to a penalty of not less than Five Thousand Dollars (\$5,000) nor more than One Hundred Thousand Dollars (\$100,000) to be recovered by a suit in the name of the State of Texas by the Attorney General or by any County or District Attorney, under his authority, in any District Court in Travis County or in the county or counties where such election is held. The Attorney General or any other party to a suit brought under this Article shall have the right to subpoena witnesses and compel their attendance as provided in the Statutes of Texas relating to criminal cases. Any corporation which shall by final judgment have been found guilty of violating any provision of this Article, shall thereafter, for any subsequent violation of any provision of this Article be subject to a penalty of not less than Fifty Thousand Dollars (\$50,000) nor more than Two Hundred Thousand Dollars (\$200,000), and in addition to other penalties, its charter or permit to do business in Texas may be forfeited upon suit of the Attorney General, if in the judgment of the Court before whom the litigation is pending, the public interest requires it. No penalties which may be paid hereunder, shall, in fixing rates to be charged by such corporation, be charged as operating cost or capital. Any person, partnership or association which shall violate any provision of Section (c) hereof shall be subject to a penalty of not more than Five Thousand Dollars (\$5,000) to be recovered in a suit in the name of the State of Texas by the Attorney General or any County or District Attorney under his authority in any District Court in Travis County or in the county or counties where such election is held. As amended Acts 1941, 47th Leg., p. 789, ch. 491, § 3.

CHAPTER EIGHT—DISSOLUTION OF CORPORATIONS

Art. 1390. 1206, 682, 606 Effect of dissolution

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 160, Vernon's Texas Rules of Civil Procedure.

Art. 1391. 1206, 682, 606 Suit on claim

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 29, Vernon's Texas Rules of Civil Procedure.

CHAPTER TEN—PUBLIC UTILITIES

3. WATER

Art. 1434a. Water supply or sewer service corporations

Section 1. That on and after the passage of this Act, three or more persons who are citizens of the State of Texas, may form a corporation for the purpose of furnishing a water supply or sewer service, or both, to towns, cities, private corporations, individuals, and military camps and bases, and may provide in the charter of such corporation that no dividends shall ever be paid upon the stock and that all profits arising from the operation of such business shall be annually paid out to cities, towns, corporations, and other persons who have during the past year transacted business with such corporation, in direct proportion to the amount of business so transacted, provided that no such dividends shall ever be paid while any indebtedness of the corporation remains unpaid and, provided also, that the Directors of such corporation may allocate

to a sinking fund such amount of the annual profits as they deem necessary for maintenance, upkeep, operation, and replacements.

Sec. 1-a. It shall be unlawful for any person, firm, association, or corporation to withdraw any water from the Guadalupe River or Comal River or any tributaries of such rivers or springs emptying into such rivers, or either of them, for the purpose of transporting such water to any point or points located outside of the natural watersheds of such rivers.

Any such withdrawal or attempted withdrawal of water from said rivers, springs, and/or tributaries may be enjoined in a suit for injunction brought by any person, municipality, or corporation owning riparian rights in or along said rivers. The venue of such suits shall be in the District Court of the county where such withdrawal or attempted withdrawal occurred. As amended Acts 1941, 47th Leg., p. 666, ch. 407, § 1.

Approved and effective May 31, 1941. the Act should take effect from and after
Section 3 of amendatory Act of 1941 de- its passage.
clared an emergency and provided that

Sec. 2. The said corporation is hereby vested with power to negotiate and contract with any and all Federal Government agencies including, without exclusion because of enumeration, the Emergency Conservation Acts, Public Works Acts, Self-liquidating Acts, Housing Unit Acts, Colonization Acts, Conservation Acts, Emergency Relief and Reconstruction Acts, and the Reconstruction Finance Corporation Act of January 22, 1932, Acts of the Seventy-second Congress of the United States of America, First Session, and with others, for the acquisition, construction, and/or maintenance of such project and improvements; to obtain money from such Federal Government agency or other sources for the purpose of financing said acquisition, and encumber the properties so acquired or constructed and the income, fees, rents, and other charges thereafter accruing to the said corporation in the operation of said properties; and to evidence the transaction by the issuance of bonds, notes, or warrants to secure the funds so obtained. But it is hereby expressly provided that the bonds, notes, and/or warrants so issued shall not constitute general obligation or indebtedness of the said corporation, but shall represent solely a charge upon specifically encumbered properties and the revenue therefrom, as herein provided. As amended Acts 1941, 47th Leg., p. 666, ch. 407, § 2.

CHAPTER EIGHTEEN—MISCELLANEOUS

RURAL ELECTRIFICATION

Art. 1528b. Electric Cooperative Corporation Act; Short Title

Article 7084 relating to franchise tax does not amend, alter or change any provision of this article. See article 7084(f).

TITLE 33—COUNTIES AND COUNTY SEATS.

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art. 1572. [1365] [789] [676] County a body corporate

Acquisition by counties or cities of lands for use of United States Government, see article 5248e.

TITLE 34—COUNTY FINANCES

1. GENERAL PROVISIONS	Art.
Art. 1630a. Road and bridge fund set aside from other funds in certain counties; budgeting of fund [New].	1645c—2. Compensation of County Auditors in counties of 24,900 to 25,000 [New].
2. COUNTY AUDITOR	1645d—4. Compensation of county auditors and purchasing agent in counties of 20,442 to 20,450 [New].
1645a—7. Abolition of office of county auditor in counties of 25,500 to 25,610 [New].	1645e—2. Compensation of county auditors in certain counties [New].
1645a—8. County auditors in counties of 25,450 to 25,500; appointment; compensation; term of office [New].	1645h. County Auditor as Purchasing Agent in counties of 41,680 to 42,000; salary [New].
	1676b. Auditors in counties of 83,000 to 83,350 having navigation districts and other districts [New].

1. GENERAL PROVISIONS

Art. 1630a. Road and bridge fund set aside from other funds in certain counties; budgeting of fund

That in all counties having a population of fifty thousand, nine hundred and fifty (50,950) to fifty-one thousand, one hundred (51,100), inclusive, according to the last preceding Federal Census, the Commissioners Court shall annually set aside from all other county funds the Road and Bridge Fund and shall budget this Road and Bridge Fund into three (3) equal amounts, and the total expenditures from the Road and Bridge Fund for any four-month period of the fiscal year may not exceed one-third of the annual budget; provided that nothing in this Act shall be construed as repealing or affecting the Uniform Budget Law, County Budgets, being Sections 10, 11, 12, and 13 of House Bill No. 768, Acts of 1931, Forty-second Legislature, page 339, Chapter 206.¹ Acts 1941, 47th Leg., p. 720, ch. 445, § 1.

¹ Articles 689a—9 to 689a—12.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in counties having a population of fifty thousand, nine hundred and fifty (50,950) to fifty-one thousand, one hundred (51,100), inclusive, according to the last preceding Federal Census, the Commissioners Court shall annually set aside from all other county

funds the Road and Bridge Fund, which fund shall be budgeted into three (3) equal amounts and providing that the expenditures from said fund for any four-month period of the fiscal year may not exceed one-third of the total annual budget; provided that nothing in this Act shall be construed as repealing or affecting the Uniform Budget Law, County Budgets, being Sections 10, 11, 12, and 13 of House Bill No. 768, Acts of 1931, Forty-second Legislature, page 339, Chapter 206; and declaring an emergency. Acts 1941, 47th Leg., p. 720, ch. 445.

2. COUNTY AUDITOR

Art. 1645. 1460 Appointment in certain counties; term of office; compensation

In any county having a population of thirty five thousand (35,000) inhabitants, or over, according to the last preceding Federal Census, or having a tax valuation of Fifteen Million (\$15,000,000.00) Dollars or over, according to the last approved tax roll, there shall be biennially appointed

an auditor of accounts and finances, the title of said officer to be County Auditor, who shall hold his office for two (2) years and who shall receive as compensation for his services to the county as such County Auditor, an annual salary of not more than the annual salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the general law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of such County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court, which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county. Provided however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners' Court shall be made by order of such Court and recorded in the minutes of the Commissioners' Court of such county. As amended Acts 1941, 47th Leg., p. 1331, ch. 601, § 1.

Approved and effective July 9, 1941.

Section 3 of the amendatory Act of 1941 read as follows: "All laws or parts of laws which are in conflict herewith are hereby expressly repealed; provided, however, that this Act shall not in any way repeal or affect Senate Bill 173, passed at the Regular Session of the 47th Legislature, 1941 [Art. 1645a-7], and provided, further, that this Act shall not in any way repeal or affect Sections 1 and 2, Chapter 81, Acts of the Regular Session of the 45th Legislature, 1937, page 151 [Arts. 3912e-1, 3912e-2], or Article 1672, Revised Civil Statutes of 1925, or Article 8245, Revised Civil Statutes of 1925, as

amended by Section 1 of Chapter 119, Acts of the Regular Session, 44th Legislature."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1941, 47th Leg., p. 721, ch. 447, purports to amend article 1645, Revised Civil Statutes of 1925, as amended, by adding thereto a new section. For text of the new section, see article 1645a-8.

This article was amended twice at the Regular Session of the 47th Legislature, 1941, namely by Acts 1941, 47th Leg., p. 1331, ch. 601, § 1, set out above, and by Acts 1941, 47th Leg., p. 229, ch. 160, § 1, set out post. Neither amendment referred to the other.

Art. 1645. 1460 Appointment of county auditor in certain counties; compensation; duties

In any county having a population of thirty-five thousand (35,000) inhabitants, or over, according to the preceding Federal Census, or having a tax valuation of Fifteen Million Dollars (\$15,000,000), or over, according to the last approved tax rolls, there shall be biennially appointed an Auditor of Accounts and Finances, the title of said officer to be County Auditor, who shall hold his office for two (2) years, and who shall receive as compensation for his services One Hundred and Twenty-five Dollars (\$125) for each million dollars, or major portion thereof on

the assessed valuation, the annual salary to be computed from the last approved tax rolls; said annual salary from county funds shall not exceed Three Thousand, Six Hundred Dollars (\$3,600). Provided, that in all counties of not less than ten thousand, three hundred and eighty (10,380) inhabitants and not more than ten thousand, three hundred and ninety (10,390) inhabitants according to the 1940 Federal Census, the Commissioners Courts thereof shall have the power to determine whether an Auditor for such county is a public necessity in the dispatch of the county's business, and such Commissioners Court may enter an order so stating whether such county shall or shall not have such Auditor, and if such Court determines that a necessity exists for such Auditor, it may appoint such County Auditor, who shall qualify and perform all the duties required of a County Auditor in this State, and such Commissioners Court shall have the power to discontinue such office of County Auditor at any time that it shall determine that it is not a public necessity. Provided, that in all counties of not less than thirty-five thousand (35,000) inhabitants nor over thirty-seven thousand (37,000) inhabitants, according to the 1920 Federal Census, the salary shall not be less than Two Thousand, Four Hundred Dollars (\$2,400) annually, said salary to be paid monthly out of the General Revenue of the county upon an order of the Commissioners Court. Provided, further, that in counties having more than two hundred thousand (200,000) population and not more than three hundred thousand (300,000) population, according to the last Federal Census where there is a city and county hospital to care for the city and county patients, and where a financial record for such hospital must be kept and reports made to the city and county, the Auditor shall, in addition to the regular duties performed by him as required by law, keep such financial record of such hospital, and make such report to the executive bodies of the city and county, the Mayor and City Commissioners for the city, and the County Judge and County Commissioners for the county, and shall receive for such additional services rendered in compiling the necessary reports and records, and keeping such financial record, an additional sum of One Thousand, Two Hundred Dollars (\$1,200) per annum payable monthly, out of the fund created for said hospital. As amended Acts 1941, 47th Leg., p. 229, ch. 160, § 1.

Filed without the Governor's signature, April 22, 1941.

Effective May 2, 1941.

This article was amended twice at the Regular Session of the 47th Legislature, 1941. See, also, article 1645, ante, and note thereunder.

Section 2 of the amendatory Act of 1941, read as follows: "If any section, sentence, or any part whatever of this Act should be

held to be unconstitutional or invalid, the same shall not affect the remaining portion of this Act, and it is hereby declared that the Legislature would have passed that part which is constitutional and valid."

Section 3 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1645a—5. Auditors in counties of 33,200 to 33,600

In every county in this State having a population of not less than thirty-three thousand two hundred (33,200) and not more than thirty-three thousand six hundred (33,600), according to the last preceding Federal Census, the District Judge having jurisdiction in such county shall, if such reason be good and sufficient, appoint a County Auditor as provided in Article 1646, of the Revised Civil Statutes of Texas, of 1925, and said Auditor shall receive a salary of Twenty-seven Hundred (\$2700.00) Dollars per year, which salary is hereby fixed, and same shall be paid in

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

the same manner as other county officers are paid in said counties. As amended Acts 1941, 47th Leg., p. 844, ch. 519, § 1.

Filed without the Governor's signature, June 24, 1941.

Effective June 24, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1645a—7. Abolition of office of county auditor in counties of 25,500 to 25,610

No County having a population of not less than twenty-five thousand five hundred fifty (25,550), nor more than twenty-five thousand six hundred ten (25,610), according to the last preceding or any future Federal Census, shall have a County Auditor, and the office of County Auditor is hereby abolished in any and all such Counties, and the duties of the office of County Auditor in such Counties shall be performed by such other officers of the County, as may be provided by General Law. Acts 1941, 47th Leg., p. 36, ch. 22, § 2.

Filed without Governor's signature Feb. 27, 1941.

Effective March 8, 1941.

Section 1 of this Act repeals Acts 1941, 47th Leg., p. 23, ch. 12, abolishing office of county auditor in counties of 25,470 to 25,915.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that no County having a population of not less than twenty-five thousand five hundred fifty (25,550), nor more than twenty-five thousand six hundred ten (25,610), according to the last preceding, or future Federal Census, shall have a County Auditor; abolishing the office of County Auditor in any such County; repealing Senate Bill No. 110, Acts of 47th Legislature, Regular Session, 1941; and declaring an emergency. Acts 1941, 47th Leg., p. 36, ch. 22.

Art. 1645a—8. County auditors in counties of 25,450 to 25,500; appointment; compensation; term of office

In any county having a population of not less than twenty-five thousand, four hundred and fifty (25,450) nor more than twenty-five thousand, five hundred (25,500) according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services the sum of Eighteen Hundred Dollars (\$1800) per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners Court. Acts 1941, 47th Leg., p. 721, ch. 447, § 1.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

The act of 1941, cited to the text, purports to amend article 1645, Revised Civil Statutes of 1925, as amended, by adding a new section.

Art. 1645c—2. Compensation of County Auditors in counties of 24,900 to 25,000

That from and after the effective date of this Act in all counties having a population according to the last Federal Census of not less than twenty-four thousand, nine hundred (24,900) and not more than twenty-five thousand (25,000), the County Auditors of such counties shall receive an annual salary of Two Thousand, Four Hundred Dollars

(\$2,400), to be paid in twelve (12) equal monthly installments out of the general fund of such counties. Acts 1941, 47th Leg., p. 120, ch. 93, § 1.

Filed without the Governor's signature, April 1, 1941.

Effective April 14, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for compensation for County Auditors in certain counties; providing mode and manner of payment of such salary; and declaring an emergency. Acts 1941, 47th Leg., p. 120, ch. 93.

Art. 1645d—4. Compensation of county auditors and purchasing agents in counties of 20,442 to 20,450

That from and after the effective date of this Act in all counties having a population according to the last Federal Census of not less than twenty thousand, four hundred and forty-two (20,442) and not more than twenty thousand, four hundred and fifty (20,450), the County Auditor and Purchasing Agent of such counties shall receive an annual salary of Two Thousand, Four Hundred Dollars (\$2,400), to be paid in twelve (12) equal monthly installments out of the Road and Bridge Fund of such counties. Acts 1941, 47th Leg., p. 724, ch. 450, § 1.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for compensation for County Auditor and Purchasing Agent in certain counties; providing mode and manner of payment of such salary; and declaring an emergency. Acts 1941, 47th Leg., p. 724, ch. 450.

Article 1645e—2. Compensation of County Auditors in Certain Counties

In all counties in this State having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700) inhabitants, according to the last preceding Federal Census, and having an assessed valuation in excess of Twenty Million Dollars (\$20,000,000) according to the last preceding approved tax roll of such counties, the County Auditor shall receive as compensation for his services a salary of One Hundred and Fifty Dollars (\$150) for each One Million Dollars (\$1,000,000) or major portion thereof on the assessed valuation of said county, such annual salary to be computed from the last approved tax roll, and to be paid in twelve (12) monthly installments or in the same manner as other county officers are paid in said counties. As added Acts 1941, 47th Leg., p. 544, ch. 339, § 1.

Filed without the Governor's signature, May 26, 1941.

Effective May 27, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws in so

far as they conflict with this law. Section 3 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1645h. County Auditor as Purchasing Agent in counties of 41,680 to 42,000; salary

That in all counties having a population according to the last preceding Federal Census of not less than forty-one thousand, six hundred and eighty (41,680) inhabitants and not more than forty-two thousand, one hundred (42,100) inhabitants, the County Auditor, in addition to the regular duties performed by him as now required by law, shall act as Purchasing Agent for the County, and shall receive a salary of Thirty-seven Hundred and Fifty Dollars (\$3750) per annum, payable in twelve

(12) equal monthly installments out of the General Revenues of the county. Acts 1941, 47th Leg., p. 386, ch. 217, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing additional duties for County Auditors in all counties having not

less than forty-one thousand, six hundred and eighty (41,680) inhabitants and not more than forty-two thousand, one hundred (42,100) inhabitants, according to the last preceding Federal Census; fixing the salaries of such County Auditors; providing mode and manner of payment thereof; repealing all laws in conflict therewith; and declaring an emergency. Acts 1941, 47th Leg., p. 386, ch. 217.

Art. 1646. Auditors for other counties

When the Commissioners' Court of a county not mentioned and enumerated in the preceding Article shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court fully setting out the reason for and necessity of an Auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a County Auditor as provided in the preceding Article, who shall qualify and perform all the duties required of County Auditors by the laws of this State, and who shall receive as compensation for his services as County Auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be determined and fixed by the District Judge or District Judges having jurisdiction in the county, a majority thereof ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county; provided, however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners' Court shall be made by order of such Court and recorded in the minutes of the Commissioners' Court of such County. Provided, said District Judge or District Judges shall have the power to discontinue the services of a County Auditor as provided for in this Article at any time after the expiration of one (1) year from the appointment, when it is clearly shown that such

Auditor is not a public necessity, and his services are not commensurate with his salary. As amended Acts 1941, 47th Leg., p. 1331, ch. 601, § 2.

Effective date. See note under article 1645.

Art. 1667. Improvement district finances

In all counties which have or may have a County Auditor and containing a population of one hundred ten thousand (110,000) or more, as shown by the preceding Federal Census, and in all counties having a population of not less than thirty-eight thousand (38,000) nor more than thirty-eight thousand three hundred fifty (38,350), according to the last Federal Census, and in which counties there exists or in which there may be created any improvement, navigation, drainage, or road or irrigation district, or any other character of district having for its purpose the expenditure of public funds for improvement purposes, or for improvements of any kind whether derived from the issuance of bonds or through any character of special assessment, the County Auditor shall exercise such control over the finances of said district as hereinafter provided. As amended Acts 1941, 47th Leg., p. 841, ch. 516, § 1.

Filed without the Governor's signature, June 23, 1941.

Effective June 23, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Application of this and following articles to accounting of Water Control and Improvement Districts and record of purchases in counties over 500,000, see article 7880-3b1.

Counties of 83,000 to 83,350, application to, see article 1676b.

Art. 1676b. Auditors in counties of 83,000 to 83,350 having navigation districts and other districts

Section 1. In all counties having a County Auditor and containing a population of not less than eighty-three thousand (83,000) and not more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and in which there are Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Courts of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills, and warrants of any such district for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Sec. 2. The officers and directors of each such district shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such district for the calendar month next preceding.

Sec. 3. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other districts created for improvement and conservation purposes in counties containing a population of not less than eighty-three thousand (83,000), nor more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Courts of such coun-

ties, shall supersede all other provisions for auditing the receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. Only the provisions of this Act and of Articles 1667, 1672, and 1673 of the Revised Civil Statutes of Texas of 1925 shall apply in counties having a population of not less than eighty-three thousand (83,000), and not more than eighty-three thousand, three hundred and fifty (83,350), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Sec. 5. If any provision of this Act is held to be unconstitutional, or otherwise invalid, same shall not affect the validity of any other provision hereof. Acts 1941, 47th Leg., p. 409, ch. 238.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in counties containing a population of not less than eighty-three thousand (83,000) and not more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts, the County Auditor shall audit books, accounts, records, bills, and warrants of such districts, and other districts created for improvement and con-

servation purposes which are not administered by the Commissioners Courts of such counties; providing that the officers and directors of such districts shall, on or before the 10th of each month, make and file with the County Auditor reports in writing of collections and disbursements, and providing that annually, between July 1st and October 1st, the County Auditor shall audit the books, accounts, records, bills, and warrants of such districts; providing that only Articles 1667, 1672, and 1673, Revised Civil Statutes of Texas of 1925, shall apply to such counties; repealing all laws and parts of laws in conflict herewith; providing if any part of this Act shall be declared unconstitutional, it shall not affect the validity of the remainder; and declaring an emergency. Acts 1941, 47th Leg., p. 409, ch. 238.

TITLE 35—COUNTY LIBRARIES

2. LAW LIBRARY

Art.

1702d. Law libraries in counties of 80,000 to 225,000; library fund [New].

2. LAW LIBRARY

Art. 1702a. County law libraries in certain counties; management

For the purpose of establishing a "County Law Library" there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each case, civil or criminal, except suit for delinquent taxes, hereafter filed in every County or District Court, civil or criminal, in each county having eight (8) or more District Courts and three (3) or more County Courts including County Courts at Law. Provided, however, that in no case shall the county be liable for said cost in any civil or criminal cases. Such costs shall be collected by the clerk of the respective Courts, and when collected shall be paid to the County Treasurer, to be kept by him in a separate fund to be known as the "County Law Library Fund"; such fund shall be administered by the Commissioners Court for the purchase, lease or maintenance of a law library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants of such county, and for the payment of salaries to employees to be appointed by the Commissioners Court; the Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court. As amended Acts 1941, 47th Leg., p. 521, ch. 317, § 1.

Filed without the Governor's signature,
May 24, 1941.

Effective May 26, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1702d. Law libraries in counties of 80,000 to 225,000; library fund

The Commissioners Courts of all counties within this State, having a population of not less than eighty thousand (80,000) inhabitants nor more than two hundred and twenty-five thousand (225,000) inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing "County Law Libraries" after the entry of such order, there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each case, civil or criminal, except suits for delinquent taxes, hereafter filed in every County or District Court; provided however, that in no event

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shall the county be liable for said costs in any case. Such costs shall be collected by the Clerks of the respective Courts in said counties and paid by said Clerk to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said Courts for the purchase and maintenance of a law library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said Courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said library and the use of the books thereof, and to carry out the terms and provisions of this Act.

Sec. 4. This Act shall not have the effect of repealing or modifying any existing law in regard to county law libraries; but such Acts shall remain in full force and effect as to all counties affected thereby; and this Act shall be cumulative. Acts 1941, 47th Leg., p. 1315, ch. 589.

Filed without the Governor's signature, July 1, 1941.

Effective July 2, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that all counties within this State, having a population of not less than eighty thousand (80,000) inhabitants nor more than two hundred and twenty-five thousand (225,000) inhabitants,

according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, may, upon an order being made by their Commissioners Courts for this purpose, provide for and maintain a county law library; providing for the funds for said library; granting to said Courts all necessary power and authority to make this Act effective; providing that said Act shall be cumulative; and declaring an emergency. Acts 1941, 47th Leg., p. 1315, ch. 589.

TITLE 36—COUNTY TREASURER

Art.

1704—A. Premium on bond; payment by commissioners' courts of certain counties [New].

Art. 1704—A. Premium on bond; payment by commissioners' courts of certain counties

In every county in the State of Texas having a population of not less than nineteen thousand ten (19,010), nor more than nineteen thousand seventy (19,070), and not less than twenty-three thousand eight hundred (23,800), nor more than twenty-four thousand (24,000), and not less than fifty-four thousand (54,000), nor more than fifty-four thousand five hundred (54,500), according to the last preceding Federal Census, the Commissioners' Court of such counties is hereby authorized to pay out of the General Funds of such counties the premium on the official surety bond now required of such County Treasurers. Added Acts 1941, 47th Leg., p. 1316, ch. 590, § 1.

Filed without the Governor's signature, July 3, 1941.

Effective July 5, 1941.

Sections 2 and 3 of the Act of 1941 read as follows:

"Sec. 2. All laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed, but where the same are not in conflict, the provisions of this Act shall be cumulative of existing laws.

"Sec. 3. If any section, or sections, clause, sentence, or provision of this Act should for any reason be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act and such remaining parts shall remain in full force and effect."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners' Court in every county of the State of Texas having a population of not less than nineteen thousand ten (19,010), nor more than nineteen thousand seventy (19,070), and not less than twenty-three thousand eight hundred (23,800), nor more than twenty-four thousand (24,000), and not less than fifty-four thousand (54,000), nor more than fifty-four thousand five hundred (54,500), according to the last preceding Federal Census, to pay out of the General Funds of such counties the premium on the surety bond required by law to be furnished by County Treasurers; repealing all laws and parts of laws in conflict herewith; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 1316, ch. 590.

Art. 1714. 1510, 931, 999 To examine dockets, accounts, etc.

Counties of 10,065-10,075

Acts 1941, 47th Leg., p. 389, ch. 220, read as follows:

"Section 1. That in counties having a population of not less than ten thousand and sixty-five (10,065) inhabitants, nor more than ten thousand and seventy-five (10,075) inhabitants, according to the last preceding Federal Census, and containing an incorporated city of not less than six thousand, four hundred and fifty-nine (6,459) inhabitants, according to such census, it shall be the duty of the County Treasurer, in addition to the duties otherwise imposed upon him by law, to audit the books of all of the officers of his respective county, including his own books, and to

make full and detailed reports of such audits at such times as may be designated by the Commissioners Court as well; and provided further that this Act shall not be construed as depriving the Commissioners Court of its power to have the books of any officer audited by some other person when it deems the same advisable.

"Sec. 2. That in such counties the County Treasurer shall receive as compensation for his work such salary and commissions as shall be allowed by the Commissioners Court, not to exceed Two Thousand Dollars (\$2,000) in any one year."

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

TITLE 37—COURT—SUPREME

CHAPTER THREE—TERMS AND JURISDICTION

Art. 1728. 1521, 940, 1011 Appellate jurisdiction

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 483, Vernon's Texas Rules of Civil Procedure.

Art. 1731a. Rules of practice; power of Supreme Court in civil judicial proceedings

Amendments to Rules Prior to April 1, 1941:

Acts 1941, 47th Leg., p. 66, ch. 53, effective March 6, 1941, reads as follows:

"Section 1. The Supreme Court is vested hereby with the power to make any amendments or changes, prior to April 1, 1941, in the rules of practice and procedure in civil actions which it has filed with the Secretary of State and which are to be effective September 1, 1941. Such amendments or changes shall be filed by the Supreme Court with the Secretary of State and publication thereof shall be made in the Texas Bar Journal at least thirty (30) days before September 1, 1941.

"Sec. 2. Nothing in this Act shall repeal, alter, or limit the power of the Supreme Court to make other further or ad-

ditional changes or amendments in such rules subsequent to September 1, 1941.

"Sec. 2(a). Nothing in this Act shall affect the power and right of the 47th Legislature to disapprove the original Rules as provided by House Bill No. 108, General Laws, Regular Session of the 46th Legislature; and in case of such disapproval, no such changes or amendments as provided in Section 1 hereof shall be made by the Supreme Court.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict only."

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1738. 1587 Transfer of causes

The Supreme Court shall, as early as practicable after the 1st day of January and the 1st day of June of each year, equalized, as nearly as practicable, the amount of business upon the dockets of the several Courts of Civil Appeals as of the close of business on the 31st day of December and the 31st day of May of each year by directing the transfer of cases from such of said Courts as may have the greater amount of business upon their dockets to those having a less amount of business. Said Court may, at any other time, order cases transferred from one Court of Civil Appeals to another, when, in the opinion of the Supreme Court, there is good cause for such transfer. And the Courts of Civil Appeals to which such cases shall be transferred shall have jurisdiction over all such cases so transferred, without regard to the District in which the cases were originally tried and returnable upon appeal. Provided that the Justices of the Court to which such cases are transferred shall, after due notice to the parties or their counsel, hear oral argument on such cases at the place from which the cases have been originally transferred. Provided further, that there shall be but one sitting for oral argument at the place from which cases are transferred for each equalization, and all cases so transferred at any one equalization must be orally argued at such sitting, or at the regular place of sitting of the Court to which said cases are transferred. All opinions, orders and decisions in such transferred cases shall be delivered, entered and rendered at the place where the Court to which such cases are transferred regularly sits as the law provides. The actual and necessary traveling and living expenses of the Justices of said Courts in hearing oral argument at the place from which such cases are transferred shall be borne

by the State, and for payment thereof the Legislature shall make appropriation. As amended Acts 1941, 47th Leg., p. 762, ch. 476, § 1.

Approved and effective June 10, 1941. the Act should take effect from and after
Section 2 of the amendatory Act of 1941 its passage.
declared an emergency and provided that

CHAPTER FOUR—WRIT OF ERROR

Arts. 1739-1747. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 467, 469, 468, 473, 471, 482, 485,
Vernon's Texas Rules of Civil Procedure.

CHAPTER FIVE—PROCEEDINGS IN THE SUPREME COURT

Arts. 1755-1759. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 497, 476, 418, 477, 478, Vernon's
Texas Rules of Civil Procedure.

Arts. 1761-1765. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 488, 515-517, Vernon's Texas
Rules of Civil Procedure.

CHAPTER SIX—JUDGMENT

Arts. 1766-1780. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 501-514, Vernon's Texas Rules
of Civil Procedure.

CHAPTER SEVEN—COMMISSION ON APPEALS

Arts. 1789-1791. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 521, 522, Vernon's Texas Rules
of Civil Procedure.

Art. 1799. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 518, Vernon's Texas Rules of
Civil Procedure.

Art. 1800a. Commission of appeals

Sec. 6. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 519, Vernon's Texas Rules of Civil Procedure.

Sec. 11. Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 518, Vernon's Texas Rules of Civil Procedure.

TITLE 39—COURTS OF CIVIL APPEALS**CHAPTER ONE—TERMS AND JURISDICTION**

Art. 1813. 1581, 988 Election and term of office; Special Commissioner appointed when justice disabled or called into active military service

(a) The Justices of each Court of Civil Appeals shall be elected at the general election by the qualified voters of their respective districts. Upon their qualification, after the first election after the creation of any Court of Civil Appeals, the Justices shall draw lots for the terms of office; those drawing number one (1) shall hold for the term of two (2) years; those drawing number two (2) shall hold for a term of four (4) years; and those drawing number three (3) shall hold office for six (6) years. Each of said offices shall be filled by election at the next general election before the respective terms expire; and the person elected shall thereafter hold his office for six (6) years.

(b) After any Justice of any Court of Civil Appeals has become totally disabled to discharge any of the duties of his office, by reason of illness, physical or mental, and has remained in such condition continuously for a period of not less than one (1) year, and if it is probable that such illness will be permanent, and is of such a nature that it will probably continue to incapacitate such Justice for the balance of his term of office, it shall be the duty of the other two Justices of the Court of which such incapacitated Justice is a member to certify such facts to the Governor. Upon receipt of such certificate by the Governor, he shall make proper investigation touching the matters therein contained and if he shall determine that the facts contained in such certificate are true, and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such Special Commissioner, when so appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court; and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(c) The Commissioner herein provided for, when appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Civil Appeals, and he shall serve until the death or expiration of the term of the disabled member; provided that in no event shall the term of service continue for a longer time than two (2) years under the same appointment; and provided further, that in the event the disabled Justice shall recover from his disability, the term of such Special Commissioner shall immediately end. In the event of such recovery two (2) Justices of said Court shall certify such fact to the Governor, and such certificate shall be conclusive evidence of the recovery of said disabled Justice.

(d) Whenever any Justice of any Court of Civil Appeals is called or ordered into the active military service of the United States, it shall be the duty of the other two Justices of the Court of which such Justice is a member, to certify that fact to the Governor. Upon receipt of such certificate by the Governor, he shall make proper investigation touching the matters therein contained, and if he shall determine that the facts contained in such certificate are true, and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such

Special Commissioner, when so appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court; and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(e) Such Special Commissioner, when so appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Civil Appeals, and shall serve until the Justice who has been so called or ordered into the active military service of the United States is discharged from such military service, or until the expiration of the term of office of such Justice; provided that in no event shall the term of service of such Special Commissioner continue for a longer period than two (2) years under the same appointment; and provided further that when such Justice so called or ordered into the active military service of the United States is discharged from such active military service, the term of such Special Commissioner shall immediately end. When the active military service of such Justice shall have terminated, the other two Justices of such Court of Civil Appeals shall certify that fact to the Governor, and their certificate shall be conclusive evidence of the facts so certified.

(f) Nothing in this Act shall be considered as giving any two (2) members of any Court of Civil Appeals, or the Governor, the power or authority to remove or suspend any member of the Court of Civil Appeals from office, or to in any manner interfere with him in his Constitutional rights and powers. As amended Acts 1941, 47th Leg., p. 170, ch. 123, § 1.

Approved April 12, 1941.

Effective April 12, 1941.

Section 2 of the amendatory Act of 1941 read as follows: "If any part of this law shall be declared unconstitutional, it is hereby declared to be the intent of the

Legislature to pass all Constitutional portions thereof notwithstanding."

Section 3 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1825. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 394, Vernon's Texas Rules of Civil Procedure.

CHAPTER TWO—CLERKS AND EMPLOYÉS

Art. 1836b. Copy of opinion to clerk of lower court and attorneys

Repealed insofar as it relates to the Civil Appellate Courts by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, §

1). See Rule 456, Vernon's Texas Rules of Civil Procedure.

Art. 1836c. Appellate court opinions to be furnished trial courts

Repealed insofar as it relates to the Civil Appellate Courts by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1).

See Rule 457, Vernon's Texas Rules of Civil Procedure.

CHAPTER THREE—PROCEEDINGS

Art. 1837. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1838. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 372, Vernon's Texas Rules of Civil Procedure.

Art. 1839. 1608, 1015 Time to file transcript

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Pro-

cedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 386, Vernon's Texas Rules of Civil Procedure.

Art. 1840. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 430, Vernon's Texas Rules of Civil Procedure.

Art. 1840—A. Amendment of appeal bonds

Repealed in so far as it relates to the Civil Appellate Courts by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, §

1). See Rule 430, Vernon's Texas Rules of Civil Procedure.

Arts. 1841—1849. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 387, 374, 402, 389, 411, 412, 414, 410, Vernon's Texas Rules of Civil Procedure.

CHAPTER FOUR—CERTIFICATION OF QUESTIONS**Art. 1851. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**

This article, Acts 1933, 43rd Leg., p. 147, ch. 71, authorizing certified questions to the Courts of Civil Appeals and the Supreme Court in cases wherein the constitutionality of any law or any order, rule or regulation of any officer board, or other State Commission is attacked as being violative of either the State or Federal Constitution, was held unconstitutional and void by the Supreme Court in *Morrow v.*

Corbin, 122 T. 553, 62 S.W.2d 641; *Wright v. San Jacinto Trust Co.*, 122 T. 582, 62 S.W.2d 652; *Stennett v. Pfeiffer*, 122 T. 575, 62 S.W.2d 652; *Pond v. Matheson*, 122 T. 580, 62 S.W.2d 654; *Smith Bros. v. Guardian Trust Co.*, 122 T. 577, 62 S.W.2d 655.

See Rule 461, Vernon's Texas Rules of Civil Procedure.

Arts. 1852—1855. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 463, 464, 479, 462, Vernon's Texas Rules of Civil Procedure.

CHAPTER FIVE—JUDGMENT OF THE COURT**Arts. 1856—1872. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**

See Rules 434—450, Vernon's Texas Rules of Civil Procedure.

CHAPTER SIX—CONCLUSION OF FACT AND LAW

Arts. 1873–1876. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 453–455, 451, Vernon's Texas Rules of Civil Procedure.

CHAPTER SEVEN—REHEARING

Arts. 1877–1880. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 458, 460, Vernon's Texas Rules of Civil Procedure.

CHAPTER EIGHT—WRIT OF ERROR TO SUPREME COURT

Arts. 1881–1883. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 471, 472, Vernon's Texas Rules of Civil Procedure.

Art. 1883a. Transferred to Article 2249a

The provisions of this article, derived from Acts 1939, 46th Leg., p. 59, are now set out under article 2249a.

TITLE 40—COURTS—DISTRICT**CHAPTER THREE—POWERS AND JURISDICTION**

Art. 1918. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 20, Vernon's Texas Rules of Civil Procedure.

CHAPTER FOUR—TERMS OF COURT

Art. 1922. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 19, Vernon's Texas Rules of Civil Procedure.

Art. 1926. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 114, Vernon's Texas Rules of Civil Procedure.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art.
 1934a—8. Stenographer or clerk for county judge in counties of 11,710 to 11,720 and 38,400 to 38,500; salary [New].

Art.
 1934a—9. Stenographer or clerk for county Judges and district and county clerks in counties of 2,325 to 2,900 and 6,100 to 6,150; salary [New].

Art. 1934a—7. Stenographer or clerk for County Judge in counties of 10,399 to 10,499

In any county in this State with a population of not more than ten thousand, four hundred and ninety-nine (10,499) and not less than ten thousand, three hundred and ninety-nine (10,399) inhabitants, according to the last preceding Federal Census, the County Judge shall be and is hereby authorized to employ a stenographer or a clerk at a salary of not to exceed One Hundred Dollars (\$100) per month. Such salary is to be paid monthly by county warrants drawn on the county General Fund, the county Salary Fund, or the Road and Bridge Fund, or either of them, on the orders of the Commissioners Court of such county. Such a stenographer or clerk shall be subject to removal at the will of such County Judge. As amended Acts 1941, 47th Leg., p. 724, ch. 451, § 1.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

This article was amended twice at the Regular Session of the 47th Legislature, 1941, namely, by Acts 1941, 47th Leg., p. 724, ch. 451, § 1, set out above, and by Acts

1941, 47th Leg., p. 39, ch. 27, § 1, set out post. Neither amendment referred to the other.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 1934a—7. Stenographer or clerk for County Judge in counties of 7,700 to 7,800, and 13,199 to 13,299; salary

In any County in this State with a population of not more than seven thousand eight hundred (7,800), and not less than seven thousand seven hundred (7,700), and in Counties having not more than thirteen thousand two hundred ninety-nine (13,299) inhabitants and not less than thirteen thousand one hundred ninety-nine (13,199) inhabitants, according to the last preceding Federal Census, the County Judge with the approval of the Commissioners' Court shall be and is hereby authorized to employ a stenographer or a clerk at a salary of not to exceed One Hundred (\$100.00) Dollars per month. Such salary is to be paid monthly by County Warrants drawn on the County General Fund, the County Salary Fund, or the Road and Bridge Fund, or either of them, on the orders of the Commissioners' Court of such County. Such a stenographer or clerk shall be subject to removal at the will of such County Judge. As amended Acts 1941, 47th Leg., p. 39, ch. 27, § 1.

Filed without Governor's signature March 4, 1941.

Effective March 12, 1941.

This article was amended twice at the Regular Session of the 47th Legislature, 1941. See, also, article 1934a-7 and note thereunder.

Section 2 of the Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

Counties of 10,380 to 10,390

Acts 1941, 47th Leg., p. 143, ch. 108, § 1, read as follows: "Any county in this State having a population, as shown by the last preceding Federal Census of 1940, of not more than ten thousand, three hundred and

ninety (10,390) and not less than ten thousand, three hundred and eighty (10,380) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding One Hundred Dollars (\$100) per month, such salary to be paid monthly by county warrants drawn on the County General Fund

or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge."

Filed without the Governor's signature, April 12, 1941.

Effective April 23, 1941.

Art. 1934a—8. Stenographer or clerk for county judge in counties of 11,710 to 11,720 and 38,400 to 38,500; salary

Any county in this State having a population, as shown by the last preceding Federal Census of 1940, of not more than eleven thousand seven hundred twenty (11,720) and not less than eleven thousand seven hundred ten (11,710) inhabitants, and of not more than thirty-eight thousand five hundred (38,500) and not less than thirty-eight thousand four hundred (38,400) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding Seventy-five (\$75.00) Dollars per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners' Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge. Acts 1941, 47th Leg., p. 780, ch. 484, § 1.

Filed without the Governor's signature, June 14, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act authorizing the County Judge to employ a stenographer or clerk in any county having a population of not more

than eleven thousand seven hundred twenty (11,720) and not less than eleven thousand seven hundred ten (11,710) inhabitants, and of not more than thirty-eight thousand five hundred (38,500) and not less than thirty-eight thousand four hundred (38,400) inhabitants, according to the last preceding Federal Census of 1940; regulating the salary of same; providing for payment of salary; providing for removal; and declaring an emergency. Acts 1941, 47th Leg., p. 780, ch. 484.

Art. 1934a—9. Stenographer or clerk for county judges and district and county clerks in counties of 2,825 to 2,900 and 6,100 to 6,150; salary

In any county in this State whose population as shown by the last preceding Federal Census is not less than two thousand, eight hundred and twenty-five (2,825) and not more than two thousand, nine hundred (2,900) and in counties having not less than six thousand, one hundred (6,100) and not more than six thousand, one hundred and fifty (6,150) inhabitants, the County Judges and County and District Clerks are, and are hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge or County or District Clerk. Acts 1941, 47th Leg., p. 739, ch. 459, § 1.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the County Judges

and County and District Clerks to employ a stenographer or a secretary in any counties having a population of not less than two thousand, eight hundred and twenty-five (2,825) and not more than two thousand, nine hundred (2,900) and in counties having not less than six thousand, one hundred (6,100) and not more than six thousand, one hundred and fifty (6,150)

inhabitants according to the last preceding Federal Census; regulating the salary of same; providing for payment of salary; providing for removal; and declaring an emergency. Acts 1941, 47th Leg., p. 739, ch. 459.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

Art.		Art.	
1970—323.	Panola County Court civil jurisdiction diminished; criminal jurisdiction defined [New].	1970—326.	County court of Navarro County; probate jurisdiction; jurisdiction [New].
1970—324.	County Court at Law of Travis County created [New].	1970—327.	Judge of county court at law in counties under 350,000 may act for county judge in certain cases [New].
1970—325.	Official interpreters for County Courts at Law [New].		

Art. 1970—323. Panola County Court; civil jurisdiction diminished; criminal jurisdiction defined

Section 1. The County Court of Panola County shall have and exercise the general jurisdiction of a Probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provision as now or may be provided for by General Law governing County Courts throughout the State, but the said County Court of Panola County shall have no other civil jurisdiction, either original or appellate; and the said County Court of Panola County shall have criminal jurisdiction under such provisions as are now or may be provided for by General Law governing County Courts throughout the State.

Sec. 2. That the District Court of Panola County shall have and exercise both original and appellate jurisdiction in all civil matters and causes over which, by the laws of this State, the County Court of Panola County would have jurisdiction, except as provided in Section 1 of this Act; all causes, other than probate matters and criminal matters as are provided in Section 1 of this Act, be and the same are hereby transferred to the District Court of Panola County, and all writs and process relating to such civil matters and causes included in the subject matter of jurisdiction prescribed in this Act, issued by or out of said County Court of Panola County be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect.

Sec. 3. That the County Clerk of Panola County be and he is hereby required, within thirty (30) days after this Act takes effect, to make a full and complete transcript of all entries upon his Civil Docket heretofore made in cases which by Section 2 of this Act are required to be transferred to the District Court of said County, together with all the papers pertaining to such cases, a certified bill of costs in each case, and all cases shall be immediately docketed by the District Court as appearance cases for the next succeeding term of such District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed in anywise or manner affect judgments heretofore rendered by said County Court of Panola County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County, but the County Clerk of said County shall issue all executions, and orders of sale, and proceedings thereunder, and this Act in so doing shall be valid and binding to all intents and purposes, the same as if no change

had been made as by Section 2, therein contemplated. Acts 1941, 47th Leg., p. 31, ch. 18.

Filed without Governor's signature Feb. 26, 1941.

Effective March 6, 1941.

Section 5 of the Act of 1941 repealed all conflicting laws and parts of laws.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining the jurisdiction of the County Court of Panola County and diminishing its civil jurisdiction; providing that

the District Court of Panola County shall have jurisdiction in all civil matters over which by law the County Court would have jurisdiction; providing for the transfer of civil causes from the County Court to the District Court of Panola County; providing the Act shall not affect judgments heretofore rendered by said County Court in causes now transferred to the District Court of said County; providing for the repeal of all laws in conflict therewith; and declaring an emergency. Acts 1941, 47th Leg., p. 31, ch. 18.

Art. 1970—324. County Court at Law of Travis County created

Section 1. That there is hereby created a Court to be held in Austin, Travis County, Texas, to be called the County Court at Law of Travis County, Texas.

Sec. 2. The County Court at Law of Travis County shall have and exercise the jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State the County Court of said County would have jurisdiction, except as provided in Section 3 of this Act; and all cases pending in the County Court of said County, other than probate matters, and matters of eminent domain and such as are provided in Section 3 of this Act, shall be and the same are hereby transferred to the County Court at Law of Travis County, and all writs and process, civil and criminal heretofore issued by or out of the County Court of said County, other than those pertaining to matters over which by Section 3 of this Act jurisdiction remains in the County Court of Travis County, shall be and the same are hereby made returnable to the County Court at Law of Travis County. The jurisdiction of the County Court at Law of Travis County and of the Judge thereof shall extend to all matters of which jurisdiction has heretofore vested in the County Court or in the County Judge, except probate matters and matters of eminent domain; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Travis County as the presiding officer of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction in matters of eminent domain and the general jurisdiction of the Probate Court and all jurisdiction now conferred by law over probate and eminent domain matters; and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of said County as now existing shall have no jurisdiction over matters civil or criminal. The County Judge of Travis County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Travis County, except in so far as the same shall by this Act be committed to the County Court at Law of Travis County.

Sec. 4. The terms of the County Court at Law of Travis County shall be held in the Courthouse of Travis County as follows, to wit: Beginning on the first Mondays in January, March, May, July, September, and November in each year, and each term of said Court shall continue in session for eight (8) weeks. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts.

Sec. 5. There shall be elected in Travis County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Travis County, who shall be a qualified voter in said County, and who shall be a regularly licensed attorney at law in this State, and who shall be a resident of Travis County, Texas, and shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding such general election, who shall hold his office for two (2) years, and until his successor shall have been duly elected and qualified.

Sec. 6. The Judge of the County Court at Law of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of Travis County may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Ten Dollars (\$10) per day for each day he so actually serves, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 8. Any vacancy in the office of the Judge of the County Court at Law of Travis County shall be filled by the Commissioners Court, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified. The Commissioners Court of Travis County shall as soon as this Act becomes effective appoint a Judge of the County Court at Law of Travis County, who shall serve until the next general election and until his successor shall be duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 9. In the case of the disqualification of the Judge of the County Court at Law of Travis County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Travis County is disqualified.

Sec. 10. The Judge of the County Court at Law of Travis County may be removed from office in the same manner and for the same causes as any other County Judge may be removed under the Laws of this State.

Sec. 11. When either party to a civil case pending in the County Court or County Court at Law applies therefor, the Judge thereof shall appoint a competent stenographer, if one be present, to report the oral testimony given in such case. Such stenographer shall take the oath required of official Court reporters, and shall receive not less than Five Dollars (\$5) per day, to be taxed and collected as costs. In such cases the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the Court, shall apply to all statements of facts in civil cases tried in said Courts, and all provisions of law governing statement of facts and bills of exception to be filed in District Courts and the use of same on appeal, shall apply to civil cases tried in said Courts.

Sec. 12. The County Court at Law of Travis County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law of Travis County.

Sec. 13. All cases appealed from the Justice Courts and other inferior Courts in Travis County, Texas, shall be made direct to the County Court at Law of Travis County, under the provisions heretofore governing such appeals.

Sec. 14. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law of Travis County. The seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Travis County." The Sheriff of Travis County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Travis County shall represent the State in all prosecutions pending in said County Court at Law of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts.

Sec. 15. The jurisdiction and authority now vested by law in the County Court of Travis County, for the drawing, selection, and service of jurors shall be exercised by said Court, but juries summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 16. The Judge of the County Court at Law of Travis County shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600), per annum, to be paid out of the County Treasury on the order of the Commissioners Court, and

said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Travis County shall assess the same fees as are now prescribed or may be established by law relating to the County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section. Acts 1941, 47th Leg., p. 188, ch. 136.

Filed without the Governor's signature, April 16, 1941.

Effective April 28, 1941.

Section 17 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act creating the County Court at Law of Travis County, Texas; defining the jurisdiction of said Court; regulating practice therein; prescribing the terms of said Court; providing for Clerk and seal for said Court and prescribing the duties of the Sheriff and County Attorney in relation to said Court; limiting the jurisdiction of the County Court of Travis Coun-

ty; and providing for the transfer of cases pending and to be filed in the County Court of Travis County to the said Court hereby created, and for appeals from inferior Courts to the Court hereby created, and for appeals from said Court; creating the office of Judge of the County Court at Law of Travis County; providing for the appointment, election, removal, bond, and salary of the Judge of said Court and prescribing his qualifications; providing for a Special Judge; providing for the disposition of fees; providing for a Court Reporter and transfer of juries; and declaring an emergency. Acts 1941, 47th Leg., p. 188, ch. 136.

Art. 1970—325. Official interpreters for County Courts at Law

Section 1. The judge of the County Court at Law of any county having a County Court at Law, is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the salary of said official interpreter and provide for the payment of such salary, and shall prescribe the duties of such official interpreter.

Sec. 2. The judge of the County Court at Law shall have authority to terminate such employment of such interpreter at any time.

Sec. 3. The official interpreter so appointed by the judge of the County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oath shall suffice for his service as official interpreter of such court in all cases before such court during his term of office. Acts 1941, 47th Leg., p. 357, ch. 195.

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the judge of the

County Court at Law of any county having a County Court at Law to appoint an official interpreter for the County Court at Law in such county; authorizing the County Commissioners to provide for the salary of said official interpreter and to prescribe his duties; providing for the oath of such interpreter; and declaring an emergency. Acts 1941, 47th Leg., p. 357, ch. 195.

Art. 1970—326. County Court of Navarro County; jurisdiction

Section 1. The County Court of Navarro County shall have and exercise the general jurisdiction of a Probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such courts; to conduct lunacy hearings; to apprentice minors, as provided by law; and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provision as now or may be provided for by General Law governing County Courts throughout the State; but neither said County Court of Navarro County, nor the Judge thereof, shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction; and the said County Court of Navarro County shall have criminal jurisdiction under such provisions as are now or may be provided for

by General Law governing County Courts throughout the State; and said County Court shall have such appellate jurisdiction, save as to eminent domain, as is now or may hereafter be given it by law; provided, however, that all future statutes pertaining to probate matters enacted by the Legislature of the State of Texas, shall be operative in said Navarro County, as fully as though this statute had not been enacted.

Sec. 2. That the District Court of Navarro County and the presiding judge thereof shall have and exercise original jurisdiction in matters of eminent domain and in all civil matters and causes over which, by the laws of this State, the County Court of Navarro County would have had original jurisdiction, but for the provisions set out in Section 1 of this Act; all causes, other than probate matters, criminal matters and cases appealed from the Justice of the Peace Courts, as are provided in Section 1 of this Act shall be and the same are hereby transferred to the District Court of Navarro County, and all writs and process relating to such civil matters and causes included in the subject matter of jurisdiction prescribed in this Act, issued by or out of said County Court of Navarro County be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect.

Sec. 3. That the County Clerk of Navarro County be and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil docket heretofore made in cases which by Section 2 of this Act are required to be transferred to the District Court of said County, to prepare a certified bill of costs in each case, and to transmit the same together with all the papers pertaining to such cases to the Clerk of the District Court of said county; all such cases shall be immediately docketed by the District Clerk as appearance cases for the next succeeding term of such District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by said County Court of Navarro County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County; but such County Court shall retain jurisdiction to enforce said final judgments and the County Clerk of said County shall issue all writs of execution and orders of sale, and proceedings thereunder, and his act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as set out in Section 2. Acts 1941, 47th Leg., p. 553, ch. 350.

Filed without the Governor's signature,
May 28, 1941.

Effective May 28, 1941.

Section 5 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 6 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining the jurisdiction of the County Court of Navarro County and diminishing its civil jurisdiction; providing that the District Court of Navarro County

shall have jurisdiction in all civil matters over which by law the County Court would have original jurisdiction; providing for the transfer of certain civil causes from the County Court to the District Court of Navarro County; providing the Act shall not affect judgments heretofore rendered by said County Court in causes now transferred to the District Court of said County; providing for the repeal of all laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 553, ch. 350.

Art. 1970—327. Judge of county court at law in counties under 350,000 may act for County Judge in certain cases

Section 1. That the Judge of any County Court at Law of any county having a population of less than three hundred and fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census may act for the County Judge of the county, during the absence, inability, or disqualification of the County Judge, in any probate or guardianship proceeding or matter, and also in any juvenile or lunacy case, pending in such County Court at the time this Act takes effect as well as any such proceeding or matter or case thereafter instituted; and any such act or any judgment rendered by any Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceeding or matter and case the same as if performed by the

County Judge. Provided, however, that this Act shall not deprive the parties interested in any case pending in the County Court to appoint a proper person to try such case in the manner provided by the Constitution of this State when the Judge of the County Court in such case is disqualified.

Sec. 2. The absence, inability, or disqualification of the County Judge to preside shall be certified by the County Judge or by the Commissioners Court to the Judge of any such County Court at Law, and upon such certification, a copy of which shall be spread upon the Minutes of the appropriate Court, the Judge of any such County Court at Law shall be authorized and empowered to sit and act in the place and stead of the County Judge, and shall continue to so act until the absence, inability, or disqualification of the County Judge shall have ceased to exist.

Sec. 3. That notwithstanding the additional powers and duties hereby conferred upon the Judges of the County Courts at Law of this State, no additional compensation or salary shall be paid to them, but the compensation or salary of such Judges of the County Courts at Law shall remain the same as now, or as may be hereafter, fixed by law; provided that this Act shall not apply to any County having a population of more than three hundred and fifty thousand (350,000), according to the last Federal Census. Acts 1941, 47th Leg., p. 631, ch. 380.

Approved and effective May 27, 1941.

Section 4 of Act of 1941 repealed all conflicting laws and parts of laws to the extent of such conflict only. Section 5 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in all counties having a population of less than three hundred and fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census in the State of Texas having County Courts at Law, the Judges of such Courts may act for the County Judge in probate or guardianship proceedings or matters, also in juvenile and lunacy cases; providing that any such act and judgment of any such Judge of the County Court at Law shall be valid and binding upon all parties the same as if rendered by the County Judge; providing that this Act shall not deprive the parties interested in any case pending in the Coun-

ty Court to appoint a proper person to try such case in the manner provided by the Constitution of this State when the Judge of the County Court in such case is disqualified; requiring the County Judge or the Commissioners Court to certify to the absence, inability, or disqualification of the County Judge to preside and authorizing and empowering the Judge of any such County Court at Law to preside during the absence of said County Judge; providing that no additional compensation or salary shall be paid to the Judge of any such County Court at Law for such additional powers and duties conferred upon such Judges of the County Courts at Law by this Act; providing this Act shall not apply to any county having a population of more than three hundred and fifty thousand (350,000), according to the last Federal Census; providing for the repealing of all laws and parts of laws in conflict with this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 631, ch. 380.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER ONE—INSTITUTION, PARTIES AND VENUE

1. INSTITUTION OF SUITS

Arts. 1971–1974. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 22, 24, 25, 6, Vernon's Texas Rules of Civil Procedure.

2. SUITS AGAINST NON-RESIDENTS

Art. 1976. Actual possession not necessary

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 811, Vernon's Texas Rules of Civil Procedure.

Arts. 1977–1979. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 810, 812, 813, Vernon's Texas Rules of Civil Procedure.

3. PARTIES TO SUITS

Art. 1980. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 33, Vernon's Texas Rules of Civil Procedure.

Arts. 1988–1990. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 34–36, Vernon's Texas Rules of Civil Procedure.

Arts. 1992, 1993. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 37, 7, Vernon's Texas Rules of Civil Procedure.

Art. 1994. 2167–71 May appear by next friend

1, 2. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 44, Vernon's Texas Rules of Civil Procedure.

CHAPTER TWO—PLEADING

1. PLEADING IN GENERAL

Arts. 1997–2002. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 45, 60, 61, 52, 93, 53, 63, 737, Vernon's Texas Rules of Civil Procedure.

Art. 2002a. Filing pleadings; copy delivered to adverse party or to clerk; withdrawal

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rules 72, 75, Vernon's Texas Rules of Civil Procedure.

Art. 2002b. Filing pleadings; several adverse parties; number of copies furnished

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 72, Vernon's Texas Rules of Civil Procedure.

Art. 2002c. Failure to furnish copy of pleadings to adverse party; contempt of court

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Pro-

cedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 73, Vernon's Texas Rules of Civil Procedure.

2. PLEADINGS OF THE PLAINTIFF

Arts. 2003-2005. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 79, 81, 82, Vernon's Texas Rules of Civil Procedure.

3. PLEADINGS OF THE DEFENDANT

Art. 2006. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 84, 92, Vernon's Texas Rules of Civil Procedure.

Art. 2007. 1903 Plea of privilege

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 86, Vernon's Texas Rules of Civil Procedure.

Art. 2008. 1903 Hearing on plea

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1).

See Rules 385, 37, Vernon's Texas Rules of Civil Procedure.

Arts. 2009–2020. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 535, 93, 92, 84, 95, 97, 96, 88, 89,
Vernon's Texas Rules of Civil Procedure.

CHAPTER THREE—CITATION

Art. 2021. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 99, Vernon's Texas Rules of
Civil Procedure.

Arts. 2022–2026. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 101, 104–106, Vernon's Texas
Rules of Civil Procedure.

Arts. 2034–2039. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 107, 100, 108, 109, Vernon's
Texas Rules of Civil Procedure.

Art. 2040. 1875, 1236, 1236 Unknown heirs [or stockholders] of de-
funct corporation

Repealed in part by Rules of Civil Proce- See Rule 111, Vernon's Texas Rules of Civil
dure (Acts 1939, 46th Leg., p. 201, § 1). Procedure.

Art. 2041. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 114, 115, Vernon's Texas Rules
of Civil Procedure.

Art. 2041a. Suits against unknown owners or claimants of interest in
land; citation by publication

Secs. 2, 3. Repealed by Rules of Civil Procedure (Acts 1939, 46th
Leg., p. 201, § 1). See Rules 112, 113 Vernon's Texas Rules of Civil
Procedure.

Arts. 2042–2050. Repealed by Rules of Civil Procedure (Acts 1939, 46th
Leg., p. 201, § 1)

See Rules 116–124, Vernon's Texas Rules
of Civil Procedure.

CHAPTER FOUR—COSTS AND SECURITY THEREFOR

Arts. 2051–2071. Repealed by Rules of Civil Procedure (Acts 1939, 46th
Leg., p. 201, § 1)

See Rules 125–135, 139, 141–146, Vernon's
Texas Rules of Civil Procedure.

Arts. 2073, 2074. Repealed by Rules of Civil Procedure (Acts 1939, 46th
Leg., p. 201, § 1)

See Rules 147, 148, Vernon's Texas Rules
of Civil Procedure.

Art. 2077. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg.,
p. 201, § 1)

CHAPTER FIVE—ABATEMENT AND DISCONTINUANCE OF SUIT

Arts. 2078–2087. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 150–153, 155, 159, 161, Vernon's Texas Rules of Civil Procedure.

Art. 2089. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 162, Vernon's Texas Rules of Civil Procedure.

Art. 2091. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 154, Vernon's Texas Rules of Civil Procedure.

CHAPTER SIX—CERTAIN DISTRICT COURTS

Art.

2093c. Assignment clerk in certain counties having less than 500,000 population [New].

Art. 2092. Rules of practice and procedure

1–18, 19–22, 24–31.

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rules 330, 114, 116, 122, Vernon's Texas Rules of Civil Procedure.

Art. 2093. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 331, Vernon's Texas Rules of Civil Procedure.

Art. 2093a. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2093b. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2093c. Assignment Clerk in certain counties having less than 500,000 population

In all counties having a population of less than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, and having eight (8) District Courts, two (2) of which are Criminal District Courts, and four (4) County Courts, of which two (2) are County Courts at Law and one is a County Criminal Court, a majority of the Judges of the District Courts with civil jurisdiction may appoint an Assignment Clerk to serve under the Presiding Judge of said District Courts in the setting and disposing of cases on the

general jury docket. The salary of said clerk shall be fixed by the Commissioners Court of the county and paid in monthly installments on voucher approved by the Presiding Judge of said Courts; provided, however, that such salary shall not exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum. His appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct. Acts 1941, 47th Leg., p. 156, ch. 118, § 1.

Filed without the Governor's signature, April 12, 1941.

Effective April 24, 1941.

Section 2 of the Act of 1941 is the emergency section. It read as follows: "The fact that under the present law the Civil District Judges of Dallas County do not have the power to appoint an Assignment Clerk and the further fact that the trial and disposition of civil cases require such an office create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Assignment clerks in counties having 300,000 to 350,000 inhabitants, see article 2092, subd. 18a.

Title of Act:

An Act creating the position of Assignment Clerk for all counties having a population of less than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, and having eight (8) District Courts, two (2) of which are Criminal District Courts, and four (4) County Courts of which two (2) are County Courts at Law and one is a County Criminal Court, providing for the appointment of such clerk and for duties and salary; and declaring an emergency. Acts 1941, 47th Leg., p. 156, ch. 118.

CHAPTER SEVEN—THE JURY

2. JURY COMMISSIONERS

Arts. 2104–2116.

Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, which, by section 17 thereof, repealed this article as to counties of 16,775 and not more than 17,000 population, was de-

clared unconstitutional as discriminatory by the Court of Criminal Appeals in *Randolph v. State*, 117 Cr.R. 80, 36 S.W.2d 484.

Art. 2116a. Unconstitutional

This article, Acts 1929, 41st Leg., 1st C. S., p. 63, ch. 29, as amended by Acts 1931, 42nd Leg., p. 820, ch. 339, was declared unconstitutional by the Court of Criminal

Appeals as a special law in violation of Const. art. 3, § 56. See *Smith v. State*, 120 Cr.R. 431, 49 S.W.2d 739.

Art. 2116b. Unconstitutional

This article, Acts 1929, 41st Leg., 1st C. S., p. 176, ch. 67, §§ 1-14, was declared unconstitutional by the Court of Criminal Appeals as being discriminatory. See *Randolph v. State*, 117 Cr.R. 80, 36 S.W.2d 484.

Sections 9-11 of this article were repealed by Rules of Civil Procedure (Acts 1939, 46th Leg. p. 201, § 1).

3. JURY FOR THE WEEK

Art. 2118. 5165-6-7-8-9 Jury for the week

Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, which by section 17 thereof, repealed this article as to counties of 16,775 and not more than 17,000 population, was declared

unconstitutional as discriminatory by the Court of Criminal Appeals in *Randolph v. State*, 117 Cr.R. 80, 36 S.W.2d 484.

4. THE JURY IN COURT

Arts. 2124-2132. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 216-222, Vernon's Texas Rules of Civil Procedure.

Arts. 2138-2140. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 222-224, Vernon's Texas Rules of Civil Procedure.

Art. 2141. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, which by section 17 thereof, repealed this article as to counties of 16,775 and not more than 17,000 population, was declared unconstitutional as discriminatory

by the Court of Criminal Appeals in Randolph v. State, 117 Cr.R. 80, 36 S.W.2d 484.

See Rule 225, Vernon's Texas Rules of Civil Procedure.

Arts. 2142-2145. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 116-119, Vernon's Texas Rules of Civil Procedure.

Art. 2146. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, which by section 17 thereof, repealed this article as to counties of 16,775, and not more than 17,000 population, was declared unconstitutional as discriminatory by the

Court of Criminal Appeals in Randolph v. State, 117 Cr.R. 80, 36 S.W.2d 484.

See Rule 231, Vernon's Texas Rules of Civil Procedure.

Arts. 2147-2149. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 232-234, Vernon's Texas Rules of Civil Procedure.

Art. 2150. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, which by section 17 thereof, repealed this article as to counties of 16,775 and not more than 17,000 population, was declared unconstitutional as discriminatory by the

Court of Criminal Appeals in Randolph v. State, 117 Cr.R. 80, 36 S.W.2d 484.

See Rule 235, Vernon's Texas Rules of Civil Procedure.

Art. 2151. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 236, Vernon's Texas Rules of Civil Procedure.

CHAPTER EIGHT—TRIAL OF CAUSES

1. APPEARANCE AND PROCEDURE

Arts. 2152–2166. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 237–241, 243, 244, 173, 174, 247–249, 175, Vernon's Texas Rules of Civil Procedure.

2. CONTINUANCE AND CHANGE OF VENUE

Art. 2167. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 271, Vernon's Texas Rules of Civil Procedure.

Art. 2168a. Attendance on Legislature

In all suits, either civil or criminal, or in matters of probate, pending in any court of this State at any time within ten (10) days of a date when the Legislature is to be in session, or at any time the Legislature is in session, it shall be mandatory that the court continue such cause if it shall appear to the court, by affidavit, that any party applying for such continuance, or any attorney for any party to such cause, is a member of either branch of the Legislature, and will be or is in actual attendance on a session of the same. Where a party to any cause is a member of the Legislature, his affidavit need not be corroborated. On the filing of such affidavit, the court shall continue the cause until ten (10) days after the adjournment of the Legislature and such affidavit shall be proof of the necessity for such continuance, and such continuance shall be deemed one of right and shall not be charged against the party receiving such continuance upon any subsequent application for continuance. It is hereby declared to be the intention of the Legislature that the provisions of this section shall be deemed mandatory and not discretionary. As amended Acts 1941, 47th Leg., p. 69, ch. 56, § 1.

Approved and effective March 10, 1941. Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Repeal by Rules of Civil Procedure. This article, as to civil actions, was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the

laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 254, Vernon's Texas Rules of Civil Procedure.

Arts. 2169–2174. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 255, 257–261, Vernon's Texas Rules of Civil Procedure.

3. THE TRIAL

Arts. 2175–2183. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 262–264, 236, 265, 270, 164, 269, Vernon's Texas Rules of Civil Procedure.

4. CHARGE OF THE COURT

Arts. 2184-2190. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 271-273, 275-277, 279, Vernon's Texas Rules of Civil Procedure.

5. CASE TO JURY

Arts. 2192-2198. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 280-286, Vernon's Texas Rules of Civil Procedure.

Art. 2199. 1963-4 Disagreement as to evidence

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 287, Vernon's Texas Rules of Civil Procedure.

Arts. 2200, 2201. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 289, 288, Vernon's Texas Rules of Civil Procedure.

6. VERDICT

Arts. 2202-2207. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 290-295, Vernon's Texas Rules of Civil Procedure.

7. FINDINGS BY COURT

Arts. 2208-2210. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 296, 300, 307, Vernon's Texas Rules of Civil Procedure.

CHAPTER 9.—JUDGMENT AND REMITTITUR

1. JUDGMENTS

Art. 2213. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 49, Vernon's Texas Rules of Civil Procedure.

Arts. 2215–2222. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 302, 303, 308–313, Vernon's Texas Rules of Civil Procedure.

Art. 2225. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 314, Vernon's Texas Rules of Civil Procedure.

2. REMITTITUR AND CORRECTION

Arts. 2227–2231. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 315–319, Vernon's Texas Rules of Civil Procedure.

CHAPTER 10.—NEW TRIALS AND ARREST OF JUDGMENT

Arts. 2232–2236. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 320, 326–329, Vernon's Texas Rules of Civil Procedure.

CHAPTER 11.—BILLS OF EXCEPTIONS AND STATEMENT OF FACTS

Art. 2237. 2058–67 When taken; rules

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 372, Vernon's Texas Rules of Civil Procedure.

Arts. 2238–2241. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2241a. Return of bills of exceptions and statement of facts by attorney

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court,

upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941.

Arts. 2241b–2245. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2246. 2073 Time for filing

Repeal by Rules of Civil Procedure. This article was included in the list of

articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act

which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule

Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 381, Vernon's Texas Rules of Civil Procedure.

Arts. 2247, 2247a. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 297, 298, Vernon's Texas Rules of Civil Procedure.

CHAPTER 12.—APPEAL AND WRIT OF ERROR

Arts. 2252–2254. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 352, 353, 356, Vernon's Texas Rules of Civil Procedure.

Arts. 2256–2275. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 359, 360, 356, 361, 326, 354, 355, 363, 357, 358, 364–368, Vernon's Texas Rules of Civil Procedure.

Art. 2278. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Arts. 2278a–2280. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 380, 378, Vernon's Texas Rules of Civil Procedure.

Arts. 2281, 2282. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Arts. 2284, 2285. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 369, Vernon's Texas Rules of Civil Procedure.

CHAPTER 13.—GENERAL PROVISIONS

1. MISCELLANEOUS

Arts. 2288, 2289. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 18, 77, Vernon's Texas Rules of Civil Procedure.

Arts. 2291, 2292. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 21, 172, Vernon's Texas Rules of Civil Procedure.

2. RECEIVERS

Art. 2320. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 171, Vernon's Texas Rules of Civil Procedure.

3. OFFICIAL COURT REPORTER

Art. 2321. 1920-21 Appointment and examination

Sixteenth Judicial District

Acts 1941, 47th Leg., p. 366, ch. 204, entitled "An Act providing for the appointment by the District Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton, or the District Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, of an official shorthand reporter for such District; providing his qualifications; providing that the salary of said official shorthand reporter shall be fixed and determined by the Judge of said District and not otherwise; providing for the manner of payment of said salary and out of what fund; providing for transcript fees and allowances for expenses as provided in Chapter 56, House Bill No. 276, Acts, Regular Session of the Forty-first Legislature, 1929, which allowances, as now provided by law, being fixed and established as a part of this Act; and declaring an emergency." read as follows:

"Section 1. The Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton, or the Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Three Thousand Dollars (\$3,000) per annum, nor more than Three Thousand, Three Hundred Dollars (\$3,300) per annum, said salary to be fixed and determined by the District Judge of the Sixteenth Judicial District composed of the Counties of Cooke and Denton, or by the District Judge of the

Judicial District of which the Counties of Cooke and Denton are a part thereof, and said salary shall be in addition to the transcript fees of fifteen (15) cents per one hundred words for the Q. and A. record and twenty (20) cents per one hundred words for a narrative statement of facts, and said reporter shall, in addition, receive allowances for expenses as now provided by Chapter 56, House Bill No. 276, Acts Regular Session of the Forty-first Legislature, 1929 [Article 2326a], which allowances, as now provided by law, are fixed and established as a part of this Act. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the general funds or the jury funds of the counties in the discretion of the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

"Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for expenses shall be as provided for in this Act, and not otherwise. The provisions of this Act being declared and enacted as a special Act by the Legislature, notices thereof having been duly published and exhibited as required by law."

Filed without the Governor's signature, April 30, 1941.

Effective May 10, 1941.

Art. 2326e. Salaries of reporters in counties over 290,000

Section 1. That the official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population in excess of two hundred ninety thousand (290,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Thirty-six Hundred (\$3600.00) Dollars per annum in addition to the compensation for transcript fees as provided by law. Said salary shall be paid monthly on approval of the

Judge of such Court out of the General Fund of the county. As amended Acts 1941, 47th Leg., p. 549, ch. 346, § 1.

Filed without the Governor's signature, May 28, 1941.

Effective May 28, 1941.

Section 3 of amendatory Act of 1941 de-

Sec. 2.

Acts 1941, 47th Leg., p. 549, ch. 346, § 2, repealed section 2 of Acts 1937, 45th Leg., ch. 469, without reference to amendment of such section by Acts 1939, 46th Leg., Spec. L., p. 623, § 1. Section 2 of such Act of 1937 as amended in 1939, read as follows: "That the official shorthand reporter of each District Court, Criminal District Court, and County Court-at-Law in each county in the State of Texas having a population of more than two hundred and nine-

ty thousand (290,000) and less than three hundred and twenty-five thousand (325,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such Court out of the Jury Fund of the county."

4. MANDAMUS

Art. 2328. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 694, Vernon's Texas Rules of Civil Procedure.

TITLE 43—COURTS—JUVENILE

Art. 2338. Care of delinquent child

Where a child has been adjudged a "delinquent child", the court may commit the child to the care of a probation officer, or to the care or custody of any other proper person, and may allow said child to remain in its own home, subject to visitation of the probation officer or other person designated by the court, or under any other conditions that may seem proper and be imposed by the court; or the court may cause the child to be placed in the home of a suitable family, under such conditions as may be imposed by the court, or it may authorize the child to be boarded out in some suitable family, in case provision is made, by voluntary contribution or otherwise, for the payment of the board of such child until suitable provision may be made in a home without such payment; or the court may commit it to any institution in the county that may care for children that is willing to receive it, or which may be provided for by the State or county, suitable for the care of such children, willing to receive it, or of any State institution for boys or girls, willing to receive such child, or to any other institution in the State of Texas for the care of such children willing to receive it. In no case shall a child proceeded against under this law be committed beyond the age of twenty-one. The order of the court committing such child to the care and custody of any person shall prescribe the length of time and the conditions of such commitment. Such order shall be subject to change by further orders of the court with reference to said child; and the court shall have the power to change the custody of such child or to entirely discharge it from custody whenever, in the judgment of the court, it is to the best interest of the child to do so. As amended Acts 1941, 47th Leg., p. 355, ch. 193, § 1.

Approved May 3, 1941.

Effective May 3, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws and provided further that the

Act should be "cumulative of existing laws when not in conflict." Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 44—COURTS—COMMISSIONERS

1. COMMISSIONERS COURT

Art.

2350(6). Compensation and traveling expenses of commissioners in certain counties [New].

2. POWERS AND DUTIES

2351a—1. Fire protection and fire fighting equipment in all counties; contracts; liability of municipalities for firemen's acts [New].

2351a—2. Fire fighting equipment; purchase authorized in counties of 350,000 to 450,000; contracts [New].

2351b—3. Resettlement or rural rehabilitation projects; agreements between Commissioners Courts and United States; payments in lieu of taxes [New].

Art.

2351c. Court houses and criminal court buildings; maintenance and operation employees under control of commissioners' courts in counties of over 500,000 [New].

2352d. Appropriations for advertising by counties; Board of Development [New].

2368e. Validating notices to bidders on certain county projects and time warrants in payment [New].

2372h. Hours of work, vacations, sick leave, hospitalization, etc., in counties of 500,000 or more; flood control districts; personnel system [New].

1. COMMISSIONERS COURTS

Art. 2350(6). Compensation and traveling expenses of commissioners in certain counties

Section 1. Each County Commissioner acting as Road Commissioner and faithfully discharging the duties imposed upon him as such by law or by the Commissioners' Court, may, by order of the Commissioners' Court, be allowed, as compensation for such services in addition to his salary as such County Commissioner not to exceed the sum of One Hundred (\$100.00) Dollars per month, to be paid monthly out of the Road and Bridge Fund of the County.

Sec. 2. The Commissioners' Court of such Counties may allow the Commissioners using their personal automobiles for traveling in the discharge of their duties as Road Commissioners not to exceed Four (4¢) Cents per mile actually and necessarily traveled by said Commissioner in his personal car in the discharge of such duties, said amount to be paid out of the Road and Bridge Fund of the Counties. An account for such expenses shall be submitted by each Commissioner monthly, and no such account shall be approved by the Commissioners' Court unless the Commissioner presenting said account shall make oath as to the number of miles actually and necessarily traveled by him in his personal car in discharging his duties as Road Commissioner, and that the account presented by him is just, due, and unpaid.

Sec. 3. The provisions of this Act shall apply only to Counties having an assessed valuation of not less than Twenty Million (\$20,000,000.00) Dollars and a population of not more than three (3) persons per square mile. Acts 1941, 47th Leg., p. 224, ch. 154.

Filed without the Governor's signature, April 25, 1941.

Effective May 2, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for compensation to be paid County Commissioners for their services as Ex-officio Road Commissioners; providing for reimbursement of County Commissioners for the use by such Commis-

sioners of their personal automobiles in traveling in the discharge of their duties as Ex-officio Road Commissioners; and limiting the application of this Act to counties having an assessed valuation of not

less than Twenty Million (\$20,000,000.00) Dollars and a population of not more than three (3) persons per square mile; and declaring an emergency. Acts 1941, 47th Leg., p. 224, ch. 154.

Art. 2350m. Salaries and expenses in other counties

Jackson County

Acts 1941, 47th Leg., p. 537, ch. 332, § 1, read as follows: "In Jackson County the Commissioners Court is hereby authorized to allow each Commissioner the sum of Sixty Dollars (\$60) per month, payable out of the Road and Bridge Fund of such county, for the use of his own private automobile in the discharge of the duties required of him under the terms of the law with reference to roads and bridges, which are in addition to his regular official duties as County Commissioner; the same shall be allowed by said Commissioners Court as a claim against the county on being presented in favor of the Commissioners, and upon same being filed and approved same shall be ordered paid by the Commissioners Court out of the Road and Bridge Fund, and on such order being entered a warrant shall be drawn on such fund payable to the members of the Commissioners Court in whose favor such claim has been approved and ordered paid, and which warrant on being presented to the County Treasurer shall be by such County Treasurer paid. This allowance shall be in lieu of the county furnishing any such Commissioner with an automobile; and each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair, free of any other charge to the county."

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Wharton County

Acts 1941, 47th Leg., p. 443, ch. 279, § 1, read as follows: "In Wharton County the Commissioners Court is hereby authorized to allow each Commissioner the sum of Sixty Dollars (\$60) per month, payable out of the Road and Bridge Fund of such County, for the use of his own private automobile in the discharge of the duties required of him under the terms of the law with reference to roads and bridges, which are in addition to his regular official duties as County Commissioner; the same shall be allowed by said Commissioners Court as a claim against the County on being presented in favor of the Commissioners, and upon same being filed and approved same shall be ordered paid by the Commissioners Court out of the Road and Bridge Fund, and on such order being entered a warrant shall be drawn on such fund payable to the members of the Commissioners Court in whose favor such claim has been approved and ordered paid, and which warrant on being presented to the County Treasurer shall be by such County Treasur-

er paid. This allowance shall be in lieu of the County furnishing any such Commissioner with an automobile, and each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair, free of any other charge to the County."

Filed without the Governor's signature, May 12, 1941.

Effective May 22, 1941.

Counties of 4,590 to 4,600

Acts 1941, 47th Leg., p. 444, ch. 280, § 1, read as follows: "In any county in this State having a population of not less than four thousand, five hundred and ninety (4,590) and not more than four thousand, six hundred (4,600), according to the last Federal Census Report, and having a Special Road Law for such county, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Twenty-five Dollars (\$25) per month, payable out of the Road and Bridge Fund of such county, for the use of his own private automobile in the discharge of the duties required of him under the terms of said Special Road Law which are in addition to his regular official duties as County Commissioner; same shall be allowed by said Commissioners Court as a claim against the county, on being presented in favor of the member of the Commissioners Court, and upon said claim being filed and approved, same shall be ordered paid by the Commissioners Court out of the Road and Bridge Fund, and on such order being entered, the County Clerk shall draw a warrant on such fund payable to the member of the Commissioners Court in whose favor such claim has been approved and ordered paid, and which warrant, on being presented to the County Treasurer, shall be by such Treasurer paid."

Filed without the Governor's signature, May 12, 1941.

Effective May 22, 1941.

Counties of 5,500 to 5,575 and 2,825 to 2,900

Acts 1941, 47th Leg., p. 390, ch. 221, § 1, read as follows: "In all counties in this State having a population of not less than five thousand, five hundred (5,500) and not more than five thousand, five hundred and seventy-five (5,575), and in counties having a population of not less than two thousand, eight hundred and twenty-five (2,825) and not more than two thousand, nine hundred (2,900), according to the last preceding Federal Census, the Commissioners Court in such counties is hereby authorized to allow each Commissioner and County Judge the sum of Fifty Dollars (\$50) per

month for traveling expenses when traveling in the discharge of his official duties."

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Counties of 5,990 to 6,000

Acts 1941, 47th Leg., p. 524, ch. 321, read as follows: "Section 1. In any county in this State having a population of not less than five thousand, nine hundred and ninety (5,990) and not more than six thousand (6,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court may allow each Commissioner his traveling expenses necessarily incurred in discharging his official duties, not to exceed the sum of Twenty-five Dollars (\$25) per month; provided that said traveling expenses shall be paid from the Road and Bridge Fund of said county.

"Sec. 2. Counties of this State having a population of not less than twenty-four thousand (24,000) nor more than twenty-four thousand, five hundred (24,500) inhabitants, according to the last preceding Federal Census, may by order duly entered on the minutes of the Commissioners Court of such counties pay each Commissioner a sum not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per year as an annual salary."

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Counties of 6,100 to 6,180; 9,400 to 9,600

Acts 1941, 47th Leg., p. 89, ch. 72, read as follows: "In all counties in this State having a population of not less than six thousand, one hundred (6,100) and not more than six thousand, one hundred and eighty (6,180), and in all counties having a population of not less than nine thousand, four hundred (9,400) and not more than nine thousand, six hundred (9,600), according to the last preceding Federal Census, the Commissioners Court in such counties is hereby authorized to allow each Commissioner and County Judge the sum of Fifty Dollars (\$50) per month for traveling expenses when traveling in the discharge of his official duties."

Filed without the Governor's signature, March 25, 1941.

Effective April 5, 1941.

Counties of 6,650 to 7,000

Acts 1941, 47th Leg., p. 529, ch. 324, § 1, read as follows: "In all counties in this State having a population of not less than six thousand, six hundred and fifty (6,650) nor more than seven thousand (7,000), according to the last preceding Federal Census, County Commissioners shall receive an annual salary of One Thousand, Two Hundred Dollars (\$1,200), payable in twelve (12) equal monthly installments out of the General Fund of the county or the Road and Bridge Fund of the county."

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Counties of 10,325 to 10,350; 19,025 to 19,070; 23,900 to 23,950; 12,400 to 12,425

Acts 1941, 47th Leg., p. 829, ch. 511, read as follows: "In any county in this State containing a population of not less than ten thousand, three hundred and twenty-five (10,325) nor more than ten thousand, three hundred and fifty (10,350), and not less than nineteen thousand and twenty-five (19,025) nor more than nineteen thousand and seventy (19,070), and not less than twenty-three thousand, nine hundred (23,900) nor more than twenty-three thousand, nine hundred and fifty (23,950), and not less than twelve thousand, four hundred (12,400) nor more than twelve thousand, four hundred and twenty-five (12,425), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner not more than the sum of Thirty-five Dollars (\$35) per month to be paid out of the Road and Bridge Fund of each respective Commissioner's Precinct, for traveling expenses and depreciation on his automobile while used on official business only and/or in overseeing the construction and maintenance of the public roads of said counties. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county; provided, however, that such expenses not to exceed Thirty-five Dollars (\$35) per month must be itemized, sworn to and filed for record with the County Clerk."

Filed without the Governor's signature, June 21, 1941.

Effective June 21, 1941.

Counties of 10,399 to 10,499

Acts 1941, 47th Leg., p. 725, ch. 452, as amended Acts 1939, 46th Leg., Spec. L., p. 573, § 1, reads as follows: "In all counties in this State having a population of not less than ten thousand, three hundred and ninety-nine (10,399), and not more than ten thousand, four hundred and ninety-nine (10,499), according to the last preceding Federal Census, the Commissioners Court in such counties is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses when traveling in the discharge of his official duties."

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Counties of 12,725 to 12,825; 17,560 to 17,590; 23,650 to 23,700; 24,200 to 24,275

Acts 1939, 46th Leg., Spec.L., p. 575, § 1, as amended Acts 1941, 47th Leg., p. 454, ch. 285, § 1, read as follows: "In any county in this State containing a population of not less than twelve thousand, seven hundred and twenty-five (12,725) nor more than

twelve thousand, eight hundred and twenty-five (12,825); and counties having a population of not less than seventeen thousand, five hundred and sixty (17,560) nor more than seventeen thousand, five hundred and ninety (17,590); and counties having a population of not less than twenty-three thousand, six hundred and fifty (23,650) nor more than twenty-three thousand, seven hundred (23,700); and counties having a population of not less than twenty-four thousand, two hundred (24,200) nor more than twenty-four thousand, two hundred and seventy-five (24,275), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner not more than the sum of Thirty-five Dollars (\$35) per month to be paid out of the Road and Bridge Fund of each respective Commissioner's Precinct, for traveling expenses and depreciation on the automobile while used on official business only and/or in overseeing the construction and maintenance of the public roads of said counties. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county."

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Counties of 17,475 to 17,500

Acts 1941, 47th Leg., p. 92, ch. 76, read as follows: "In all counties in this State having a population of not less than seventeen thousand, four hundred and seventy-five (17,475) nor more than seventeen thousand, five hundred (17,500), according to the last Federal Census, and having also a taxable valuation in excess of Six Million, Eight Hundred Thousand Dollars (\$6,800,000) for the next preceding year, the salary of County Commissioners shall be One Thousand, Eight Hundred Dollars (\$1,800) per year, payable in twelve (12) equal monthly installments, out of the Road and Bridge Fund of said county."

Filed without the Governor's signature, March 25, 1941.

Effective April 5, 1941.

Counties of 18,444 to 18,500 and from 12,344 to 12,400

Acts 1941, 47th Leg., p. 187, ch. 134, § 1, read as follows: "In any county in this State containing a population of not less than eighteen thousand, four hundred and forty-four (18,444) and not more than eighteen thousand, five hundred (18,500); and counties having a population of not less than twelve thousand, three hundred and forty-four (12,344) nor more than twelve thousand, four hundred (12,400), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner not more than the sum of Thirty-five Dollars (\$35) per month, to be paid out of the Road and Bridge Fund of each respective Commis-

sioner's precinct, for traveling expenses and depreciation on the automobile while used on official business only and/or in overseeing the construction and maintenance of the public roads of said counties. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county."

Filed without the Governor's signature, April 16, 1941.

Effective April 28, 1941.

Counties of 20,050 to 20,150

Acts 1941, 47th Leg., p. 395, ch. 228, § 1, read as follows: "In any county in this State having a population of not less than twenty thousand and fifty (20,050) and not more than twenty thousand, one hundred and fifty (20,150), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each County Commissioner the sum of not exceeding Seventy-five Dollars (\$75) per month for traveling expenses and depreciation on his automobile while on official business. Each Commissioner shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county."

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Counties of 20,300 to 20,460

Acts 1941, 47th Leg., p. 360, ch. 198, read as follows:

"Section 1. The salaries and compensation of each of the County Commissioners in all counties with a population of not less than twenty thousand, three hundred (20,300) nor more than twenty thousand, four hundred and sixty (20,460) inhabitants, according to the last available Federal Census, as same now exists and as may hereafter exist, shall be Two Thousand, Four Hundred Dollars (\$2,400) per annum, payable in twelve (12) equal monthly installments out of the Road and Bridge Fund of such counties; and in all counties having a population of not less than twenty-two thousand, five hundred (22,500) nor more than twenty-three thousand, three hundred (23,300) according to the last available Federal Census, as same now exists or may hereafter exist, each County Commissioner shall be entitled to receive a salary not in excess of Three Thousand Dollars (\$3,000) per annum, payable in equal monthly installments.

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed."

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Counties of 20,480 to 20,550

Acts 1941, 47th Leg., p. 41, ch. 30, reads as follows: "In any county in this State having a population of not less than twenty thousand, four hundred and eighty (20,480)

and not more than twenty thousand, five hundred and fifty (20,550), according to the last Federal Census report, and having a Special Road Law for such county, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month, payable out of the Road and Bridge Fund of such county, for the use of his own private automobile in the discharge of the duties required of him under the terms of said Special Road Law which are in addition to his regular official duties as County Commissioner; same shall be allowed by said Commissioners Court as a claim against the county, on being presented in favor of the member of the Commissioners Court, and upon said claim being filed and approved, same shall be ordered paid by the Commissioners Court out of the Road and Bridge Fund, and on such order being entered, the County Clerk shall draw a warrant on such fund payable to the member of the Commissioners Court in whose favor such claim has been approved and ordered paid, and which warrant, on being presented to the County Treasurer, shall be by such Treasurer paid."

Filed without Governor's signature
March 4, 1941.

Effective March 10, 1941.

Counties of 20,566 to 20,598 and 11,940 to 12,000 and 21,700 to 22,400

Acts 1941, 47th Leg., p. 727, ch. 456, reads as follows:

"Section 1. In any county in this State having a population of not less than twenty thousand, five hundred and sixty-six (20,566) and not more than twenty thousand, five hundred and ninety-eight (20,598) according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each County Commissioner the sum of not exceeding Fifty Dollars (\$50) per month for traveling expenses and depreciation on his automobile while on official business. Each Commissioner shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

"Sec. 1a. In all counties in this State having a population of not less than eleven thousand, nine hundred and forty (11,940) and not more than twelve thousand (12,000) according to the last preceding Federal Census as same now exists, or may hereafter exist, and in all counties having a population of not less than twenty-one thousand, seven hundred (21,700) and not more than twenty-two thousand, four hundred (22,400) according to the last preceding Federal Census as same now exists, or may hereafter exist, the Commissioners Court of each county is hereby authorized to allow each Commissioner the sum of Twenty-five Dollars (\$25) per month for traveling expenses while on official business."

Filed without the Governor's signature,
June 7, 1941.

Effective June 10, 1941.

Counties of 20,630 to 20,650

Acts 1941, 47th Leg., p. 718, ch. 443, reads as follows: "In any county in this State having a population of not less than twenty thousand, six hundred and thirty (20,630) and not more than twenty thousand, six hundred and fifty (20,650), according to the last Federal Census Report, and having a Special Road Law for such county, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month, payable out of the Road and Bridge Fund of such county, for the use of his own private automobile in the discharge of the duties required of him under the terms of said Special Road Law which are in addition to his regular official duties as County Commissioner; same shall be allowed by said Commissioners Court as a claim against the county, on being presented in favor of the member of the Commissioners Court, and upon said claim being filed and approved, same shall be ordered paid by the Commissioners Court out of the Road and Bridge Fund, and on such order being entered, the County Clerk shall draw a warrant on such fund payable to the member of the Commissioners Court in whose favor such claim has been approved and ordered paid, and which warrant, on being presented to the County Treasurer, shall be by such Treasurer paid."

Filed without the Governor's signature,
June 7, 1941.

Effective June 10, 1941.

Counties of 24,900 to 25,000

Acts 1941, 47th Leg., p. 541, ch. 336, read as follows: "Section 1. That the salaries and compensation of each of the County Commissioners in all counties having a population of not less than twenty-four thousand, nine hundred (24,900) inhabitants and not more than twenty-five thousand (25,000) inhabitants shall be Eighteen Hundred Dollars (\$1800) per annum, payable in equal monthly installments, and that the Commissioners Court is hereby authorized to allow each Commissioner not in excess of Fifty Dollars (\$50) per month as traveling expenses; and in any county having a population of not less than fifty thousand (50,000) and not more than sixty thousand (60,000) inhabitants, and having an assessed valuation exceeding Seventy-five Million Dollars (\$75,000,000), according to the last approved tax rolls for the preceding year, is hereby authorized to allow each County Commissioner the sum of Fifty Dollars (\$50) per month as traveling expenses.

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed."

Filed without the Governor's signature,
May 26, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Counties of 25,450 to 25,500

Acts 1941, 47th Leg., p. 723, ch. 448, read as follows:

"Section 1. In all counties having a population of not less than twenty-five thousand, four hundred and fifty (25,450) nor more than twenty-five thousand, five hundred (25,500), according to the last preceding Federal Census, the salary of the county commissioners shall be Eighteen Hundred Dollars (\$1800) per year, provided that such salary shall be paid in twelve (12) equal monthly installments, said money to be paid out of the General Funds of said counties, and/or Road and Bridge Funds of the respective precincts served by said commissioners.

"Sec. 2. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict."

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Counties of 27,059 to 27,150

Acts 1941, 47th Leg., p. 394, ch. 227, read as follows: "Section 1. In any county in this State having a population of not less than twenty-seven thousand and fifty-nine (27,059) and not more than twenty-seven thousand, one hundred and fifty (27,150), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each County Commissioner the sum of Twenty-five Dollars (\$25) per month for traveling expenses while on official business.

"Sec. 2. The Commissioners Court in said counties is hereby authorized to allow each County Commissioner the use of a separate automobile to be used by the Commissioner in the discharge of official business, said automobile to be purchased by the county in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county."

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Counties of 29,760 to 29,960 and 7,951 to 8,000

Acts 1941, 47th Leg., p. 678, ch. 420, read as follows: "Section 1. In all counties in this State having a population of not less than twenty-nine thousand, seven hundred and sixty (29,760) and not more than twenty-nine thousand, nine hundred and sixty (29,960), according to the last preceding Federal Census, the Commissioners Court of such counties is hereby authorized to allow each Commissioner the sum of not more than Thirty Dollars (\$30) per month for traveling expenses while on official business in said counties.

"Sec. 1a. In all counties in this State having a population of not less than seven thousand, nine hundred and fifty-one (7,951) and not more than eight thou-

sand (8,000), according to the last Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner the sum of not more than Thirty Dollars (\$30) per month for traveling expenses."

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Counties of 30,360 to 30,400 and counties of 38,000 to 85,000

Acts 1941, 47th Leg., p. 542, ch. 337, read as follows: "Section 1. In any county in this State containing a population of not less than thirty thousand, three hundred and sixty (30,360) nor more than thirty thousand, four hundred (30,400), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner not more than the sum of Fifty Dollars (\$50) per month, to be paid out of the Road and Bridge Fund of each respective Commissioner's Precinct, for traveling expenses and depreciation on the automobile while used on official business only and/or in overseeing the construction and maintenance of the public roads of said counties. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county; provided, however, that such expenses not to exceed Fifty Dollars (\$50) per month must be itemized, sworn to, and filed for record with the County Clerk.

"Sec. 1a. In any county in this State containing a population of not less than thirty-eight thousand (38,000) nor more than eighty-five thousand (85,000), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner not more than Fifty Dollars (\$50) per month, to be paid out of the Road and Bridge Fund of each respective Commissioner's Precinct, for traveling expenses and depreciation on the automobile while used on official business only and/or overseeing the construction and maintenance of the public roads of said counties. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county; provided, however, that such expenses not to exceed Fifty Dollars (\$50) per month must be itemized, sworn to, and filed for record with the County Clerk.

"Sec. 1b. Upon the authorization of the Commissioners Court in all counties having a population according to last preceding Federal Census of not less than thirty-eight thousand (38,000) and not more than eighty-five thousand (85,000), the county judge of such counties shall be entitled to the actual and necessary expenses while out of their respective counties attending to county business. Such expenses to be paid out of the general revenue of such counties on sworn accounts thereof.

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

"Sec. 1c. If any section, subsection, paragraph, sentence, clause, or provision of this Act shall, for any reason, be held invalid, such invalidity shall not affect any other portion of this Act or the application of such section, subsection, paragraph, sentence, clause, or provision to any other person or situation, but this Act shall be construed and enforced as if such invalid provisions had not been contained therein."

Filed without the Governor's signature, May 26, 1941.

Effective May 27, 1941.

Counties of 33,650 to 33,700

Acts 1941, 47th Leg., p. 63, ch. 49, reads as follows: "Section 1. In any county in this State having a population of not less than thirty-three thousand, six hundred and fifty (33,650) and not more than thirty-three thousand, seven hundred (33,700), according to the last Federal Census Report, and having a Special Road Law for such county, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Seventy-five Dollars (\$75) per month, payable out of the Road and Bridge Fund of such county, for the use of his own private automobile in the discharge of the duties required of him under the terms of said Special Road Law which are in addition to his regular official duties as County Commissioner; same shall be allowed by said Commissioners Court as a claim against the county, on being presented in favor of the member of the Commissioners Court, and upon said claim being filed and approved, same shall be ordered paid by the Commissioners Court out of the Road and Bridge Fund, and on such order being entered, the County Clerk shall draw a warrant on such fund payable to the member of the Commissioners Court in whose favor such claim has been approved and ordered paid, and which warrant, on being presented to the County Treasurer, shall be by such Treasurer paid."

Filed without Governor's signature March 14, 1941.

Effective March 17, 1941.

Counties of 38,000 to 38,325

Acts 1941, 47th Leg., p. 433, ch. 265, § 1, read as follows: "In all counties in this State having a population of not less than thirty-eight thousand (38,000) and not more than thirty-eight thousand, three hundred and twenty-five (38,325), according to the last preceding Federal Census, the Commissioners Courts in such counties are hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses when traveling in the discharge of his official duties."

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Counties of 51,304 to 51,404

Acts 1941, 47th Leg., p. 391, ch. 222, § 1, read as follows: "In all counties in this State having a population of not less than fifty-one thousand, three hundred and four (51,304) and not more than fifty-one thousand, four hundred and four (51,404) inhabitants, according to the last preceding 1940 Federal Census, the Commissioners Court in such counties is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses when traveling in the discharge of his official business."

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Acts 1941, 47th Leg., p. 391, ch. 223, § 1, read as follows: "In any county in this State having a population of not less than fifty-one thousand, three hundred and four (51,304) and not more than fifty-one thousand, four hundred and four (51,404), according to the last preceding 1940 Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner to purchase a pickup truck to be used in each respective precinct on official business and it shall be paid for out of the Road and Bridge Fund of the respective Commissioner's Precinct and each Commissioner shall make under oath an account of his expenditures for such purpose."

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Counties of 55,000 to 68,000 with assessed valuation of not less than \$100,000,000

Acts 1941, 47th Leg., p. 531, ch. 327, § 1, read as follows: "In all counties in this State having a population of not less than fifty-five thousand (55,000) nor more than sixty-eight thousand (68,000), according to the last preceding or any future Federal Census, and having an assessed ad valorem valuation of not less than One Hundred Million Dollars (\$100,000,000), according to the tax roll for the current year of 1940, the Commissioners Court of such counties is hereby authorized to issue each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses while on official business; and in any county having a population of not less than fifty thousand (50,000) and not more than sixty thousand (60,000) inhabitants, and having an assessed valuation exceeding Seventy-five Million (\$75,000,000) Dollars according to the last approved tax rolls for the preceding year is hereby authorized to allow each County Commissioner the sum of Fifty Dollars (\$50) per month as traveling expenses. Said money shall be paid out of the General Funds of said counties."

Filed without the Governor's signature May 24, 1941.

Effective May 26, 1941.

Counties of 73,000 to 76,000 having \$42,000,000 to \$52,000,000 taxable valuation

Acts 1941, 47th Leg., p. 141, ch. 106, § 1, read as follows: "In any county in this State having a population of not less than seventy-three thousand (73,000) and not more than seventy-six thousand (76,000) according to the last preceding United States Census and not less than Forty-two Million Dollars (\$42,000,000) and not more than Fifty-two Million Dollars (\$52,000,000) taxable valuation according to the last available tax roll, the Commissioners Court of such county is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses and depreciation on his automobile and to be payable out of the Road and Bridge Fund. Each such Commissioner shall pay all expenses in the operation of his automobile and keep the same in repair free of any other charge to such county."

Filed without the Governor's signature, April 12, 1941.

Effective April 23, 1941.

Counties of 83,000 to 132,000

Acts 1941, 47th Leg., p. 546, ch. 341, read as follows: "Section 1. In any county in this State having a population of not less than eighty-three thousand (83,000) and not more than one hundred and thirty-two thousand (132,000), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses and depreciation on his automobile while on official business.

"Sec. 2. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county."

Filed without the Governor's signature, May 26, 1941.

Effective May 27, 1941.

2. POWERS AND DUTIES

Art. 2351. 2241, 1537, 1514 Certain powers specified

17. a. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is hereby empowered to create a revolving fund or funds and to make appropriations thereto out of the general revenue of such county; and such revolving fund shall be used by such county only in cooperation with the United States Department of Agriculture to aid and assist in carrying out the purposes and provisions of an Act of Congress of the United States pertaining to the distribution of commodities to persons in need of assistance, under the direction of the United States Department of Agriculture; provided, however, that the county shall have on hand at all times either the moneys appropriated to such revolving fund or funds or the equivalent thereof in stamps issued by the United States Department of Agriculture under the Food and/or Cotton Stamp Plan; which stamps are convertible into cash at any time.

b. In such counties of this State exercising the powers herein granted, an issuing officer shall be appointed to carry out the provisions of this Act and to administer the funds herein appropriated. Such issuing officer shall be a citizen of the State of Texas and appointed by the County Judge of such County subject to the approval of the Commissioners Court thereof. He shall be required to furnish a good and sufficient surety bond in such amount and upon such terms and conditions as may be required by the Commissioners Court and the United States Department of Agriculture. Such issuing officer shall receive a salary, to be paid out of the general fund or any other fund of the county, except constitutional funds, not otherwise appropriated, not to exceed Two Hundred Dollars (\$200) per month, and may appoint such cashiers and other assistants as may be authorized by such Court. The premiums of all bonds which may be required of such issuing officer, cashiers or other assistants, shall be paid by the Commissioners Court out of any available funds therefor belonging to such county.

c. Provided however the powers herein granted to such counties may be exercised by two (2) or more counties in conjunction with each

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

other and in cooperation with the United States Department of Agriculture. And when such powers are exercised by two (2) or more counties jointly, the County Judges of such counties shall appoint the issuing officer, fix such appointee's bond and to do all other things necessary to cooperate with the United States Department of Agriculture in the same and like manner as is herein granted to any one county of this State.

d. Provided that such Commissioners Courts of such counties may cooperate with any incorporated city or town within such county or counties on such conditions and requirements as may be promulgated by such Commissioners Court or Courts.

e. Whenever any county herein authorized to create such a revolving fund ceases to participate therein the issuing officer appointed under the provisions hereof shall forthwith reduce all stamps to their equivalent in money and return such moneys then on hand to the fund from which same was originally appropriated and render a full account of his administration thereof to the Commissioners Court or Courts as the case may be. Added Acts 1941, 47th Leg., p. 204, ch. 146, § 1.

Approved April 15, 1941.

Effective April 15, 1941.

Section 2 of the amendatory Act of 1941, read as follows: "If any section, subsection, or clause of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any of the remaining portions of this Act,

and it is hereby declared that this Act would nevertheless have been passed without such section, subsection, or clause so declared unconstitutional."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage and approval by the Governor of this State.

Art. 2351a. Fire fighting equipment; purchase authorized in certain counties

Section 1. The Commissioners Court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants in accordance with the last preceding Federal Census, and in counties having a population of more than forty-eight thousand, five hundred (48,500) and less than forty-nine thousand (49,000) inhabitants, and in counties having a population of not less than twenty-two thousand and eighty-nine (22,089) nor more than twenty-two thousand, one hundred (22,100) inhabitants, and in counties having a population of more than six thousand, one hundred (6,100) and less than six thousand, one hundred and eighty (6,180) inhabitants in accordance with the last preceding Federal Census, shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town. As amended Acts 1941, 47th Leg., p. 107, ch. 85, § 1.

Filed without the Governor's signature
April 1, 1941.

Effective April 9, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2351a—1. Fire protection and fire fighting equipment in all counties; contracts; liability of municipalities for firemen's acts

The Commissioners Court in all counties of this State shall be authorized to furnish fire protection and fire fighting equipment to the citizens of such county residing outside the city limits of any city, town, or village within the county and/or adjoining counties. The Com-

Commissioners Court shall have the authority to purchase fire trucks and other fire fighting equipment by first advertising and receiving bids thereon, as provided by law. The Commissioners Court of any county of this State shall also have the authority to enter into contracts with any city, town, or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of such city, town, or village, for the use of the fire trucks and other fire fighting equipment of the city, town, or village. It is specifically provided that the acts of any person or persons while fighting fires, traveling to or from fires, or in any manner furnishing fire protection to the citizens of a county outside the city limits of any city, town, or village, shall be considered as the acts of agents of the county in all respects, notwithstanding such person or persons may be regular employees or firemen of a city, town, or village. No city, town, or village within a county and/or adjoining counties shall be held liable for the acts of any of its employees while engaged in fighting fires outside the city limits pursuant to any contract theretofore entered into between the Commissioners Court of the county and the governing body of the city, town, or village. Provided however, that any fire equipment purchased by any County shall be done only by a majority vote of property owning taxpayers and qualified voters of such county at a county-wide election called for such purpose. Acts 1941, 47th Leg., p. 567, ch. 360, § 1.

Approved May 22, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act authorizing the Commissioners Court in all counties of this State to provide fire protection and fire fighting equipment for the citizens of the county outside of any city, town, or village therein, either by the purchase and maintenance by the county of the necessary equipment, or by entering into contracts with the governing body of cities, towns, or villages located within the county and/or adjoining

counties for the use of the fire fighting equipment of the city, town, or village; providing that the operation of any fire fighting equipment outside the city limits of any city, town, or village, pursuant to contracts with the Commissioners Court of the county, shall be considered as operations of the county, and all persons engaged in such operations, notwithstanding they may be employees of a city, town, or village, shall be considered as agents for the county in all respects; providing purchase of fire fighting equipment must be authorized by election; and declaring an emergency. Acts 1941, 47th Leg., p. 567, ch. 360.

Art. 2351a—2. Fire fighting equipment; purchase authorized in counties of 350,000 to 450,000; contracts

Section 1. The Commissioners Court in counties having a population of more than three hundred and fifty thousand (350,000) and less than four hundred and fifty thousand (450,000) inhabitants in accordance with the last preceding Federal Census shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town.

Sec. 2. The Commissioners Courts in such counties are empowered and authorized to enter into contracts with any centrally located municipality in the county for the operation and maintenance of said fire trucks and other fire-fighting equipment on such terms as the Commissioners Court may deem proper and expedient.

Sec. 3. The provisions of this Act are cumulative of all other laws other than special laws and if any section, subdivision, paragraph, sen-

tence, or clause of this Act be held unconstitutional, the remaining portions thereof shall be valid. Acts 1941, 47th Leg., p. 681, ch. 424.

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing and empowering the Commissioners Court in counties having a population of more than three hundred and fifty thousand (350,000) and less than four hundred and fifty thousand (450,000) inhabitants, according to the last preceding Federal Census, to purchase fire trucks and other fire-fighting equipment for the protection and preservation of bridges,

warehouses, shops, and other property located without the limits of any incorporated city or town; authorizing and empowering the Commissioners Court to enter into contracts with any centrally located city in the county for the operation and maintenance of any such fire trucks and equipment; providing that the provisions of this Act are cumulative of all of the laws other than special laws; providing that in the event any section, subdivision, paragraph, sentence, or clause be held unconstitutional, that the remaining portions thereof shall be valid; and declaring an emergency. Acts 1941, 47th Leg., p. 681, ch. 424.

Art. 2351b—3. Resettlement or rural rehabilitation projects; agreements between Commissioners Courts and United States; payments in lieu of taxes

Section 1. The following definitions shall be applied to the terms used in this Act:

(1) "Agreement" shall mean contract and shall include renewals and alterations of a contract.

(2) "Political subdivision" shall mean any agency or unit of this State which is now, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

(3) "Services" shall mean such public municipal functions as are performed for property in, and for persons residing within, a political subdivision.

(4) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision and shall include the persons inhabiting such projects.

(5) "Governing body" shall mean the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested.

Sec. 2. The Commissioners Court of any county in this State is hereby authorized and empowered (a) to make requests of the United States, for and on behalf of the county and political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay, and (b) to enter into agreements with the United States, in the name of the county, for the performance of services by the county and such political subdivisions for the benefit of a project, and for the payment by the United States to the county, in one or more installments, of sums in lieu of taxes.

Sec. 3. Each agreement entered into pursuant to Section 2 shall contain the names of the political subdivisions in whose behalf it is consummated and a statement of the proportionate share of the payment by the United States to which each political subdivision shall be entitled. The Commissioners Court shall immediately notify each political sub-

division in whose behalf an agreement is entered into of the consummation thereof.

Sec. 4. The Commissioners Court shall file one copy of any agreement for a payment of sums in lieu of taxes with the County Treasurer. On or before the date on which any payment of sums in lieu of taxes is due, the County Treasurer shall present a bill to the United States, in the name of the county, in the amount of such payment. Whenever such payment is received, the County Treasurer shall issue a receipt therefor in the name of the County.

Sec. 5. Immediately after receiving a payment in lieu of taxes, the County Treasurer shall, without any deduction, apportion and pay it to the several political subdivisions in accordance with the agreement under which the payment was received, notwithstanding any other law controlling the expenditure of county funds. The acceptance by the governing body of a political subdivision of its share of a payment in lieu of taxes shall be construed as an approval of the agreement under which the payment was received. If any governing body shall refuse to accept a political subdivision's share of a payment in lieu of taxes, the County Treasurer shall refund the same, without any deduction, to the United States.

Sec. 6. If the United States declines to deal with a Commissioners Court with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie within more than one county, that political subdivision is authorized to make requests of the United States for such payments in lieu of taxes as the United States may agree to pay. Such political subdivision is hereby empowered to enter into agreements with the United States for the performance by the political subdivision of services for the benefit of a project and for the payment by the United States to the political subdivision, in one or more installments, of sums in lieu of taxes.

Sec. 7. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf an agreement is entered into, of performing services for the benefit of a project during the period of an agreement, after taking into consideration the benefits to be derived by each political subdivision from such project, but shall not be in excess of the taxes which would result to each political subdivision from such project for said period if the real property of the project within each political subdivision were taxable.

Sec. 8. All money received by a political subdivision pursuant to Sections 5 and 6 shall be deposited in such fund or funds as may be designated in the agreement; provided, however, that if the agreement does not make such designation, the money shall be deposited in such fund or funds as the governing body of such political subdivision shall by appropriate resolution direct.

Sec. 9. No provision of this Act shall be construed to relieve any political subdivision of this State, in the absence of an agreement for payment of sums in lieu of taxes by the United States, as provided in this Act, of the duty of furnishing for the benefit of a project all services which the political subdivision usually furnished to property in, and to persons residing within, the political subdivision without a payment of sums in lieu of taxes. Acts 1941, 47th Leg., p. 264, ch. 179.

Approved April 29, 1941.

Effective April 29, 1941.

Section 10 of the Act of 1941 declared an

emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to provide for agreements between the Commissioners Court of any county in this State, for and on behalf of the county and political subdivisions thereof, and the United States, relative to resettlement or rural rehabilitation projects, and providing for the payment by the United States to the county of sums in lieu of taxes; defining the duties of the County Treasurer pertaining to such agreement and to the apportionment of payments from the United States thereunder; providing for contents of agreements and for notification of interested political subdivi-

vision; providing acceptance of funds hereunder by a political subdivision shall be construed as approval of agreement; making provision for making request by political subdivisions under certain conditions; prescribing the method of determining the sums of money to be paid by the United States in lieu of taxes; providing for the depositing of moneys received from the United States; providing nothing in the Act shall be construed to relieve any political subdivision of the duty of furnishing all services usually furnished; defining terms; and declaring an emergency. Acts 1941, 47th Leg., p. 264, ch. 179.

Art. 2351c. Court houses and criminal court buildings; maintenance and operation employees under control of commissioners' courts in counties of over 500,000

In all Counties having a population of more than five hundred thousand (500,000), according to the last preceding or any future Federal Census, all employees necessary to the repair, maintenance, and operation of all court houses and Criminal Court Buildings shall be under the direction and control of the Commissioners' Court. The Court may designate a building superintendent who shall appoint all necessary employees subject to confirmation by the Commissioners' Court. The Court shall have the right to discharge any such employee at any time for cause. Such appointments shall be in writing, shall be signed by the employee, state the nature of the duties to be performed, the period for which such employment is made, the hours to be worked, and the amount to be paid, and shall conform to the requirements and be subject to the limitations provided by Section 19, Chapter 465, Acts of 1935, Second Called Session¹. Such employments shall in no event extend beyond January 1st of the year succeeding the appointment, but may be renewed from year to year. The number of persons to be employed and the amounts to be paid shall be subject to the approval of the County Auditor. All laws regulating the making of employments, the accounting for funds, and all budget laws and regulations applicable in the Counties to which this Act applies shall apply to such employments, except insofar as in conflict with this Act, in which event this Act shall control. All employees, including jail guards, matrons, elevator operators and other such employees engaged in the operation of the jails in such Counties shall continue to be employed and discharged by the Sheriff in the manner now provided by law, and all employees necessary for the proper conduct of the jails or the safekeeping of the prisoners shall be subject to the exclusive direction and control of the Sheriff of such County. Acts 1941, 47th Leg., p. 35, ch. 21, § 1.

¹ Article 3912e.

Filed without Governor's signature Feb. 27, 1941.

Effective March 8, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Repair of court houses by commissioners courts, see art. 2351.

Title of Act:

An Act providing that the Commissioners' Courts in Counties of more than five hundred thousand (500,000) population, ac-

ording to the last preceding Federal Census, shall have the authority to direct, control, employ, and discharge all building superintendents, janitors and other employees necessary to the upkeep, maintenance, and operation of the court houses in their counties, excepting jail guards, matrons and other employees directly engaged in the operation and maintenance of the jails and safekeeping of prisoners in such Counties, prescribing rules regarding such employees, and limitations upon the amount of salary to be paid, the

method of employing and accounting, and the period for which such employment

shall be made, and declaring an emergency. Acts 1941, 47th Leg., p. 35, ch. 21.

Art. 2352b. Unconstitutional

This article held to be a local law applicable only to El Paso County and hence void as making an unreasonable classification bearing no relation to the object

sought to be accomplished by the act. See, *Miller v. El Paso County*, 136 T. 370, 150 S.W.2d 1000, reversing, Civ.App., 146 S.W.2d 1027.

Art. 2352d. Appropriations for advertising by counties; Board of Development

Section 1. That all counties in the State of Texas may appropriate from the General Fund of said counties an amount not exceeding five (5) cents on the one hundred dollars assessed valuation, for the purpose of advertising and promoting the growth and development of such county; providing that before the Commissioners Court of any county may appropriate any sums for such purpose, the qualified tax-paying voters of said county shall, by a majority vote of the persons voting at such election, authorize the County Commissioners to thereafter appropriate not to exceed five (5) cents on the one hundred dollars assessed valuation.

Sec. 2. The amount of money approved by the Commissioners Court for the Board of Development shall constitute a separate fund to be known as the Board of Development Fund and shall not be used for any other purpose. Each claim against the Board of Development shall be authorized and approved by the Board of Development before presented for payment, and after such approval, shall be presented to the Commissioners Court and acted upon as all other claims against the Commissioners Court.

The Board of Development hereinafter provided for shall annually, in advance, prepare and submit to the Commissioners Court a budget for the ensuing year in the same manner as required of counties. The money appropriated annually shall be governed by the discretion of the Commissioners Court, but in no event shall said sum be in excess of five (5) cents on the one hundred dollars assessed valuation.

Sec. 3. There is hereby created, in counties qualifying under this law, a Board of Development, which shall devote its time and effort for the purpose of advertising and promoting the growth and development of any such county. The Board of Development shall be authorized to expend any sums reasonably necessary to accomplish its purposes for personnel, rent, and materials, subject to the approval of the Commissioners Court.

The Board of Development shall consist of five (5) members, to be appointed by the Commissioners Court; said members shall serve for a period of two (2) years from their appointment, without compensation, and until their successors are appointed and accept said appointment. Vacancies on such Board shall be filled by the Commissioners Court in the same manner as the original appointment.

Sec. 4. This law shall be cumulative of all other laws authorizing counties to appropriate money, or to levy a tax for advertising and promotional purposes, and counties shall have the option of operating under any one applicable law, but in any event, the maximum amount of money which can be appropriated for such purpose shall not exceed the limits herein fixed.

Sec. 5. Any sums heretofore appropriated or expended for advertising or promotional purposes under any such previous Acts are hereby validated. Acts 1941, 47th Leg., p. 341, ch. 186, as amended Acts 1941, 47th Leg., p. 905, ch. 558, § 1.

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

Approved and effective May 1 and June 30, 1941.

Sections 2 and 3 of the amendatory Act of 1941 p. 905, ch. 553, read as follows: "The authority to levy the tax provided for herein, shall be restricted to counties of more than one hundred thousand (100,000) population, according to the most recent United States Census.

"Sec. 3. If any section, clause, paragraph, or sentence of this Act shall be declared unconstitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall remain in full force and effect."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Section 5 of the Act of 1941, p. 341, ch. 186, declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the City Council of

home rule cities or the Commissioners Court in all counties in the State of Texas to appropriate from the General Fund not more than five (5) cents on the one hundred dollars assessed valuation, for the purpose of advertising and promoting the growth and development of the home rule cities or the counties, and providing for an election authorizing such appropriation; providing said appropriation to constitute a separate fund to be known as the Board of Development Fund; limiting the amount to be appropriated; and creating and providing for the appointment of a Board of Development, devoted to the growth, advertisement, and development of such home rule cities or counties; prescribing certain duties for said Board; making the Act cumulative of other laws authorizing such cities or counties to appropriate money; and declaring an emergency. Acts 1941, 47th Leg., p. 341, ch. 186.

Art. 2368a. Requirements governing advertising for bids by counties and cities

Securities issued under article 2370 as subject to provisions hereof, see article 2370, § 4.

Art. 2368e. Validating notices to bidders on certain county projects and time warrants in payment

In each instance wherein a county has given notice to bidders for the construction, improvement, or repair of any public building in the county and notice of intention to issue time warrants in which notice the maximum amount of time warrants stated does not exceed Sixty Thousand Dollars (\$60,000), in payment for all or a part of the cost of such work, and such notice was published in a newspaper of general circulation in said county fourteen (14) days or more prior to the date therein set for receiving bids, and the second publication thereof is had before or after the effective date of this Act, and before the date set for receiving bids, such notice is hereby validated and declared to be legal and sufficient notice, notwithstanding the fact that such notice was not published for two (2) consecutive weeks, and the Commissioners Court is authorized to proceed with the making of a contract pursuant to such notice and the issuance of time warrants in payment therefor. Contracts made, and time warrants authorized in payment therefor, pursuant to such notice and prior to the effective date of this Act, are hereby validated.

Sec. 2. Provided that this Act shall not validate any warrants issued as herein described, the validity of which is attacked in any court of competent jurisdiction by suit pending therein at the time or within fifteen (15) days of the time this Act becomes effective. Acts 1941, 47th Leg., p. 37, ch. 24, as amended Acts 1941, 47th Leg., p. 125, ch. 97, § 1.

Acts 1941, 47th Leg., p. 37, ch. 24, filed without the Governor's signature, Feb. 27, 1941. Effective March 8, 1941.

Acts 1941, 47th Leg., p. 125, ch. 97, approved and effective April 1, 1941.

Section 3 of Acts 1941, 47th Leg., p. 37, ch. 24, and section 2 of p. 125, ch. 97, de-

clared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating notices to bidders on certain county projects and notices of intention to issue time warrants in payment

thereof in each instance where the maximum amount of the warrants stated in said notice is not more than Sixty Thousand Dollars (\$60,000), and where the first publication of such notice was fourteen (14) or more days prior to the date set for receiving bids, notwithstanding the fact that such notice was not published for two (2) consecutive weeks; authorizing Commissioners Courts to proceed with the making of contracts pursuant to such notice and to issue time warrants in payment therefor; validating contracts made

and time warrants authorized in payment thereof pursuant to such notice and prior to the effective date of this Act; providing that this Act shall not validate any warrants issued as herein described, the validity of which is attacked in any court of competent jurisdiction by suit pending therein at the time or within fifteen (15) days of the time this Act becomes effective; enacting other provisions relating to the subject; and declaring an emergency. Acts 1941, 47th Leg., p. 37, ch. 24.

Art. 2370. Buildings, etc. other than courthouse for courts and public business; leasing part; income; bonds or other evidence of indebtedness

Section 1. The Commissioners Court of any county may, when necessary, provide buildings, rooms, or apartments at the county seat, other than the courthouse, for holding the sessions of the County Courts, District Courts, and for carrying on such other public business as may be authorized by the Commissioners Court, and may lease or rent such part of any such buildings, rooms, or apartments as may not be necessary for public use.

Sec. 2. Whenever any county in this State may have acquired a building (other than the courthouse) at the county seat which is used partly for public business and which is partly rented for private purposes, where such building was acquired by such county in settlement of an obligation owed to the county, and the Commissioners Court of such county desires to enlarge, remodel, renovate, add onto, repair, improve, or otherwise alter such building, and funds are not available for such purpose, the Commissioners Court of such county shall have the power to issue negotiable bonds, notes, warrants, or other evidences of indebtedness to secure funds for such purpose and to pledge, assign, encumber, and hypothecate the net income and revenues from the portion of such building which the Commissioners Court finds is not then and will not thereafter be necessary for public purposes. No such obligation so issued shall ever be a debt of such county but shall be solely a charge upon the income and revenue so encumbered and no such obligation shall ever be counted in determining the power of any such county to issue any bonds for any purpose authorized by law.

Sec. 3. No part of the income or revenue of any such building shall ever be used to pay any other debt, expense, or obligation of such county until the indebtedness so secured shall have been finally paid; provided that the expense of operation and maintenance including all salaries, labor, materials, interest, improvements, repairs, and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such income and revenue and only such repairs and extensions as in the judgment of the Commissioners Court are necessary to keep the building in operation and render adequate service, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original security, shall be a lien prior to the lien herein provided for.

There shall be charged and collected as rental for those parts of such building not used for public purposes, a sufficient amount to pay all operating, maintenance, depreciation, replacement, betterment, and interest charges, and expenses, and to create an interest and sinking fund sufficient to pay any securities issued hereunder.

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

Sec. 4. Each contract bond, warrant, note, or other evidence of indebtedness issued pursuant to this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by counties. In such case, upon approval, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charge other than by taxation. Securities issued under the provisions hereof shall be subject to the applicable provisions of the Bond and Warrant Law of 1931 as amended (House Bill No. 312, Acts of 1931, Forty-second Legislature, page 269, Chapter 163, as amended¹) except as same may be inconsistent herewith and under no circumstances shall any vote of the taxpayers be required upon any securities issued hereunder. As amended Acts 1941, 47th Leg., p. 643, ch. 388.

¹ Article 2368a.

Approved and effective May 29, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 2372c. Conservation of agricultural soils; use of road machinery

Acts 1941, 47th Leg., p. 491, ch. 308, § 5 (B), set out in note under Article 165a—4, provided that article 2372c should not be in any way repealed by the Act of 1941 amending article 165a—4, but that it should be expressly preserved in accordance with

the terms of the Act of 1941. A similar provision was contained in section 17 of Acts 1939, 46th Leg., p. 7, which was omitted in the amendment of the Act of 1939 as a whole by the Act of 1941. See article 165a—4 and notes thereunder.

Art. 2372h. Hours of work, vacations, sick leave, hospitalization, etc., in counties of 500,000 or more; flood control districts; personnel system

Section 1. In all counties having a population of five hundred thousand (500,000) or more according to the last preceding or any future Federal Census, the Commissioners' Court of the county shall have authority to formulate in the manner hereinafter set out rules and regulations governing the hours of work, vacations, holidays, sick leave, medical care, hospitalization, compensation and accident insurance, and deductions for absences with reference to all persons whom this Act affects, and to establish for such persons classifications of positions and rates of compensation therefor, and to provide for the filing by the incumbents thereof of time, work, and statistical reports. The said rules and regulations when adopted as hereinafter provided shall apply to and govern all deputies, assistants, and employees of the county, or any flood control district lying wholly within the boundary lines of any such county, working under the Commissioners' Court or its appointees, and the deputies and assistants appointed by county and district officers pursuant to the provisions of Chapter 465, Acts of the 44th Legislature, 1935, Section 19, as amended,¹ where the salaries are paid from county or from the funds of any flood control district in said county, provided that nothing herein shall be construed as repealing said Chapter 465, supra., with respect to the authority of the county or district officers therein named to apply for appointment of deputies or assistants or the maximum amount or source of compensation which may be paid, but all such regulations with respect to deputies or assistants to such officers shall conform to laws now in effect or such as may hereafter be enacted by the

Legislature, and each county officer and each district officer, where the deputy or assistant or employee is authorized to be paid from county funds or funds of any flood control district within the county, shall continue to make appointments according to existing laws and shall designate the employee for each such position and shall direct and control the work or terminate the employment at the pleasure of such officer, as is now or as may be hereafter provided by law, it being the intention of this Act only to authorize the Commissioners' Court, in addition to the authority now vested in it by law, to formulate rules and regulations governing the hours of work, vacations, holidays, sick leave, medical care, hospitalization, compensation and accident insurance, and deductions for absences; to establish classifications of positions and salaries therefor; and to provide for filing of time, work, and statistical reports by such deputies, assistants, and employees, in the interests of efficiency and economy.

After appointment and approval thereof by the proper authority, all employments shall be placed in effect through written contracts of employment. Said court shall have the right to prescribe the form of contract of employment for its employees and employees of any said flood control district and for all employees of officers who are required to execute deputations under Chapter 465, Acts of the 44th Legislature, 1935, as amended,¹ and all officers whose deputies are appointed subject to the approval of the Commissioners' Court shall be required to use such forms in the appointment of their deputies and assistants.

Contracts; hospital and insurance fund

Sec. 2. The Commissioners' Court of any such county shall have the right to provide in said contract of employment that deputies, assistants, and other employees of the county, its departments or officers, or of any flood control district within such county, whose compensation is payable from funds of any such county or flood control district therein, may receive hospitalization and medical care and treatment in any county or city-county operated hospitals located in such county under such rules, regulations, and conditions as said court may prescribe and shall be authorized to enter into contracts with the proper municipal authorities for that purpose. All such rules, regulations, and conditions adopted pursuant to the provisions of this Act and approved as provided herein, including those for hospitalization, medical care, and insurance, shall become a part of each deputation or contract of employment. The Commissioners' Court may provide in unusual cases for the expense of such hospital care in a private hospital and may provide for compensation, accident, hospital, or disability insurance, and for contributions for part payment from deputies, assistants, and employees. To provide for cases of hospitalization or medical attention in a county or city-county hospital, or private hospital when necessary, and for the payment of premiums for accident, disability, hospital, or compensation insurance, a fund shall be created to be known as "Hospital and Insurance Fund—County Employees," and there shall be credited to such fund agreed deductions made from the salaries or wages of deputies, assistants, and employees, and contributions from the county or flood control district, from which fund payments shall be authorized only for the purpose of expenses of hospital and medical care and the payment of premiums on accident, disability, or compensation insurance under the adopted rules and regulations, which claims shall be payable under existing laws in like manner as other county or flood control district claims. Any employee who shall be discharged or voluntarily leave the service of the county or flood control district for any reason shall have no further right

in said hospital and insurance fund or any right to the further benefits of this Act, but said fund shall continue to be used for the benefit of all remaining employees of the county or flood control district. No contract of employment shall become effective as to any deputy, assistant, or employee as defined herein until the employment is made conformably to law and until the person employed shall have agreed in writing to the terms and conditions thereof. No deduction from the salary of any employee shall be made except he shall have consented in writing given at the time of his employment or at the effective date of the rules and regulations adopted pursuant to the provisions of this Act; provided any employee not contributing shall not receive any hospitalization or insurance benefits hereunder, but all other provisions hereof shall apply to him. In the event of the abandonment by the Commissioners' Court of the system herein authorized with respect to insurance and hospitalization, the balance remaining in the fund provided for shall thereupon be transferred to the county and to any flood control district participating, in proportion to the total contributions of each.

Personnel and equipment records

Sec. 3. Upon the occasion of each employment of each deputy, assistant, or employee whose salary or wages is paid in whole or in part from county or flood control district funds, the employing officer shall file in such form as may be prescribed by lawful authority and in addition to the other requirements of law, a statistical record which shall disclose, among other things, the date of employment, the rate of pay, nature of employment, business or personal history, the education record of employee, and his race, sex, color, age, place and date of birth, and previous experience, and other information essential to the keeping of proper personnel records. Each officer or department head of the county or any flood control district affected hereby shall file sworn pay rolls at the close of each month or oftener if authorized or required by law, which pay rolls shall show the names of each employee working under the officer in the department affected, the dates present or absent, time worked, rates of pay, and amounts due each deputy or assistant, and in addition thereto in cases of engineers and employees in the field engaged in road, flood control, or construction work, reports shall accompany said pay roll indicating the dates upon which the work was performed, the nature of the work, the road or project location, and such other information as may be needed for statistical or accounting purposes and said work reports shall be signed and shall accompany or be a part of each pay roll which pay roll in each case shall be signed and sworn to by the officer filing the same.

The county auditor shall install and maintain an adequate system of personnel and equipment records and shall prescribe the forms and systems necessary to carry out the provisions of this law and shall have authority to enforce the rules and regulations adopted. He shall be authorized annually to assemble statistics and make recommendations which may be incorporated in, printed, and distributed with and as a part of the annual report now required by law of said officer.

In the event of failure to file reports as provided in this Act or to furnish essential information as required, he may withhold payment of claims for salaries until such information has been given in the form and manner required. All contracts of employment shall be made in the manner and be governed by the laws now in effect, except as herein specifically provided. All the rules, regulations, and forms provided for

in the Act shall be subject to the approval of the county auditor of the county.

Reports

Sec. 4. Each officer and employee of any county or its departments, or any county or district officer, or any employee of any flood control district in any such county affected by this Act who operates equipment purchased from and operated with public funds or personal equipment for which he is reimbursed by the county or flood control district for operation and maintenance charges shall file with each pay roll a report in writing showing the daily use to which each piece of equipment in his charge was put and the time and mileage run, the amount expended for repairs, the gasoline, oil, and grease purchased, and the roads, bridges, or projects concerning which the work was performed; and all said reports shall be in writing and signed and certified by the officer or employee actually using said equipment. In like manner each said officer or employee shall file reports of accidents involving equipment in his charge, giving the cause, damage, location, circumstances and persons and equipment involved. All such reports shall be on prescribed forms and shall be filed not later than the fifth day of the month succeeding the period of operation, and shall disclose all facts essential to a proper analysis of maintenance and operating costs and for statistical purposes.

Rules and regulations

Sec. 5. Before adopting any rules or regulations, or revising rules or regulations theretofore adopted in connection with the subject matter of this Act, the Commissioners' Court shall give at least fifteen (15) days' notice of such proposed adoption or revision of rules or regulations by publishing a notice at least once in each week for two (2) successive weeks in some newspaper published in the county in which such rules, regulations, or revisions are to be made effective of its intention so to do, and that a hearing is to be held before said court at a fixed time and day to be specified in the notice. At the time and place fixed for hearing, any employee or taxpayer may appear to protest against the adoption of any such rule or regulation, or revision of existing rules. If sustained, the regulations shall be adjusted accordingly. Upon the adjustment or the overruling of protests, the court shall adopt the regulations and direct their recording upon its minutes, and upon approval thereof, as herein provided, they shall become effective on the date set out therein. The notice published shall contain a brief summary of the rules or regulations, or the amendments or changes therein, which it is proposed to make.

Persons subject to regulations

Sec. 6. Juvenile officers and probation officers appointed under the terms of Title 82, Revised Civil Statutes of 1925, as amended,² shall be subject to the provisions of such regulations hereinbefore provided, including those for retirement, to the extent that the juvenile board of any county affected by this Act may determine. In like manner, assistants to the county auditor appointed under the terms of Articles 1656a and 1673, Revised Civil Statutes of 1925, as amended, shall be subject to the provisions of such regulations hereinbefore provided for to the extent that the District Judges having jurisdiction in such counties affected by this Act may determine by a majority vote. The juvenile board in such counties may adopt the rules and regulations promulgated by the Commissioners' Court in accordance with the foregoing, and the District Judges having jurisdiction in said counties, a majority vote controlling, may adopt the rules and regulations promulgated by the Commissioners' Court in accordance with the foregoing; but such rules and regulations

shall apply to such juvenile and probation officers and to the assistants of the county auditor in such counties, only in the manner and to the extent authorized by the action of the juvenile board or a majority of the district judges, as the case may be, by an order or orders entered in the minutes of the juvenile board when affecting juvenile and probation officers, and in the minutes of the District Courts when affecting the assistants to the county auditor; and said orders of adoption may, in like manner, be withdrawn or modified at any time. Provided further, that nothing herein shall change the provisions of said articles with respect to the time, method, and manner of appointment or discharge of the juvenile and probation officers and assistants to the county auditor, or the salaries authorized by law to be paid as set out in said articles, the provisions of which shall remain in full force and effect.

Effect of act

Sec. 7. The provisions of this Act shall be cumulative of any other laws upon the subject matter, but where in conflict with such other laws, this Act shall prevail.

Partial invalidity

Sec. 8. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Governor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation. Acts 1941, 47th Leg., p. 754, ch. 472.

¹ Article 3912e.

² Article 5119 et seq.

Filed without the Governor's signature, June 10, 1941.

Effective June 13, 1941.

Section 9 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Commissioners' Courts in counties of five hundred thousand (500,000) population or more according to the last preceding or any future Federal Census, to formulate a general personnel system and rules and regulations covering hours of work, vacations, holidays, and sick leave, and for medical care, hospitalization and accident insurance of employees of any county affected hereby or any flood control district therein and deputies and assistants to county officers, providing for classifications of positions for said employees and rates of compensation within the limits provided by the Legislature, and for work reports; designating the persons to whom such rules and regulations shall apply and the manner in which the same shall be adopted and for publication thereof; providing that such rules and regulations shall apply to any flood control district wholly within such counties; providing for contracts of employment under such rules

and regulations; providing for the creation of a fund and contributions thereto by employees and by any county or flood control district affected hereby for the payment of expenses herein authorized; providing for the disposal of fund balances upon abandonment of said system and for the method of payment of bills incurred for hospitalization, medical care, and insurance; providing for the establishment of a system of records, the requirements thereof, and the manner of keeping records, making reports, and pay rolls; providing for approval of all rules and regulations by the county auditor; providing for equipment reports; providing for reasonable rules and for their enforcement; providing for the application of rules and regulations adopted by Commissioners' Courts to juvenile and probation officers and assistants to the county auditor in any such county or flood control district under certain conditions and after approval by the district judges of any such county; providing that this Act shall be cumulative of existing laws except where in conflict, and if any section be unconstitutional that such determination shall not affect the remainder of the Act; and declaring an emergency. Acts 1941, 47th Leg., p. 754, ch. 472.

TITLE 45—COURTS—JUSTICE**CHAPTER ONE—JUSTICES AND JUSTICE COURTS**

Arts. 2381, 2382. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 523, 524, Vernon's Texas Rules of Civil Procedure.

Arts. 2388, 2389. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 525-527, Vernon's Texas Rules of Civil Procedure.

CHAPTER TWO—INSTITUTION OF SUIT

Arts. 2394-2398. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 528-532, Vernon's Texas Rules of Civil Procedure.

Arts. 2400-2402. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 533, 534, 536, Vernon's Texas Rules of Civil Procedure.

CHAPTER THREE—APPEARANCE AND TRIAL

Arts. 2403-2412. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 541, 535, 537-540, 542, 543, 523, 554, 544, 545, Vernon's Texas Rules of Civil Procedure.

Arts. 2419-2427. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 546-553, 555, Vernon's Texas Rules of Civil Procedure.

CHAPTER FOUR—JUDGMENT AND NEW TRIAL

Arts. 2429-2444. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 556-570, 621, Vernon's Texas Rules of Civil Procedure.

CHAPTER FIVE—EXECUTION

Arts. 2445–2449. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 621, 622, 629, 627, 628, Vernon's Texas Rules of Civil Procedure.

Arts. 2452, 2453. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 635, Vernon's Texas Rules of Civil Procedure.

CHAPTER SIX—APPEAL AND CERTIORARI

Arts. 2456–2459. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 571–574, Vernon's Texas Rules of Civil Procedure.

TITLE 46—CREDIT ORGANIZATIONS**1. RURAL CREDIT UNIONS****Art. 2465. Supervision**

Such credit union shall maintain such books and records as the Banking Commissioner may deem necessary. The Banking Commissioner shall cause each credit union to be examined at least once yearly, such examination to be made by (1) some competent person or persons designated by the Banking Commissioner, who shall be paid by the Banking Commissioner an amount not to exceed ninety (90) per cent of the fees as herein provided, which said fees shall be paid to said Banking Commissioner by the respective unions examined as provided by this Act as compensation for his or their services and as reimbursement for travel expenses and other expenses incurred; (2) by one or more credit union examiners, who shall be appointed by the Banking Commissioner and shall receive a salary of not exceeding Three Hundred Dollars (\$300) per month, and shall be reimbursed for travel expenses in the sum of Four Dollars (\$4) per day, plus cost of transportation, such examiners to retain their salary and expenses, as above provided out of fees collected by them as hereinafter provided; (3) or by the Deputy Commissioner, Departmental Examiner, any bank examiner, assistant bank examiner, building and loan supervisor or building and loan examiner, who shall receive and retain the fees collected by them as hereinafter provided, such fees so collected to be credited on the salary of the person collecting the same, so that such person shall in no event receive compensation in excess of his salary as provided by law.

Each credit union examined shall pay an examination fee fixed by the Banking Commissioner not to exceed Twenty-five Dollars (\$25) per day per person engaged upon such examination.

All fees, as above provided, shall be paid by the credit union to the person or persons making the examination, and such persons shall make a monthly account to the Banking Commissioner of the fees so collected during the preceding month, fees in excess of those retained by the examiner as above provided shall be paid to the Banking Commissioner and by him deposited with the State Treasurer to be held in a special fund and used for the purpose of enforcing the provisions of this law.

After September 1, 1943, the number of the employees and the salaries of each shall be as fixed in the biennial Departmental Appropriation Bill. As amended, Acts 1941, 47th Leg., p. 1399, ch. 634, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 47—DEPOSITORIES

CHAPTER TWO—COUNTY DEPOSITORIES

Art.
 2548a. Pledge of State General Fund Warrants as security for deposited funds of county or school district in lieu of bonds [New].

Art. 2548a. Pledge of State General Fund Warrants as security for deposited funds of county or school district in lieu of bonds

Section 1. Any banking corporation in the State of Texas selected as the depository bank for County Funds, or for the funds of any School District in Texas, including Common School Districts, Independent School Districts, Rural High School Districts, Consolidated School Districts, and any other School District in Texas, or funds of any State institution, shall be authorized to pledge General Fund Warrants of the State of Texas as securities for the purpose of securing such funds when, as otherwise provided by law, such banking corporations are authorized to pledge securities in lieu of personal bonds or surety bonds for the purpose of securing such Funds; provided, however, this privilege shall cease and be null and void whenever the deficit in the General Fund shall exceed Forty-two Million (\$42,000,000.00) Dollars. Acts 1941, 47th Leg., p. 100, ch. 82.

Filed without the Governor's signature, April 1, 1941.

Effective April 9, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing any banking cor-

poration selected as the depository for County Funds or as the depository for the funds of any School District in Texas, or funds of any State institution, to pledge General Fund Warrants of the State of Texas as securities securing such funds when, as otherwise provided by law, such banking corporations are authorized to pledge securities in lieu of personal bonds or surety bonds, and declaring an emergency. Acts 1941, 47th Leg., p. 100, ch. 82.

TITLE 49—EDUCATION—PUBLIC

Chap.
20. Teachers' Retirement [New].

CHAPTER ONE—UNIVERSITY OF TEXAS

1. BOARD OF REGENTS

- Art.
2585a. Military and naval training at University. [New].
2589c. Construction and operation of hospital; compulsory group hospitalization fees payable by students [New].

2. FUNDS AND PROPERTIES

- Art.
2603c2. Validation of proceedings and bonds purchased by Federal agencies; duties of boards [New].
2603e. State Cancer Hospital; Division of Cancer Research; establishment and control [New].

1. BOARD OF REGENTS

Art. 2585a. Military and naval training at University

The Board of Regents of the University of Texas is directed to request the War and Navy Departments of the United States of America to establish and maintain courses of military and naval training, qualifying men student graduates of such courses for reserve commission awards, as a part of its curriculum. The Board of Regents is authorized to enter into mutually agreeable contracts for such purposes.

The work of the students enrolling in such courses may be credited toward degree requirements under such regulations as the Board of Regents may prescribe.

No student of the University shall ever be required to take any portion of such training as a condition for entrance into the University or graduation therefrom. Acts 1941, 47th Leg., p. 479, ch. 302, § 1.

Approved and effective May 20, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing and directing the Board of Regents of the University of Texas to request the War and Navy Departments of the United States to estab-

lish and maintain military and naval training at said institution; and authorizing the Board of Regents to enter into contracts for such purposes; authorizing the Board of Regents to establish regulations as to credit toward degree requirements; providing the training shall not be required for entrance or graduation; and declaring an emergency. Acts 1941, 47th Leg., p. 479, ch. 302.

Art. 2589c. Construction and operation of hospital; compulsory group hospitalization fees payable by students

The Board of Regents of The University of Texas is specifically authorized to build, equip, operate, and maintain a hospital, under the provisions of Chapter 5, Acts, Second Called Session, Forty-third Legislature, as amended,¹ and to levy and collect a compulsory group hospitalization fee from each student as a prerequisite to registration in The University of Texas, not to exceed Four Dollars (\$4) for any one semester or for any one summer session. Such fee shall be in lieu of any and all other charges for hospitalization. Rules and regulations governing the operation of said hospital and the rights and privileges of students with respect to hospitalization shall be promulgated by the

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

Board of Regents of The University of Texas. Acts 1941, 47th Leg., p. 767, ch. 478, § 1.

¹ Article 2603c.

Approved and effective June 10, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

State Cancer Hospital and Division of Cancer Research, see article 2603e.

Title of Act:

An Act authorizing the Board of Regents of The University of Texas to build, equip,

operate, and maintain a hospital, under the provisions of Chapter 5, Acts, Second Called Session of the Forty-third Legislature, as amended, and to levy and collect a compulsory group hospitalization fee from each student; and declaring an emergency. Acts 1941, 47th Leg., p. 767, ch. 478.

2. FUNDS AND PROPERTIES

Art. 2603c2. Validation of proceedings and bonds purchased by Federal Agencies; duties of Boards

That severally all the acts of the Board of Regents of the University of Texas, the Board of Directors of the Agricultural and Mechanical College of Texas, the Board of Directors of Texas Technological College, the Board of Regents of the State Teachers Colleges, the Board of Regents of the Texas State College for Women, and the Board of Directors of the Texas College of Arts and Industries, heretofore had in the authorization, issuance, and delivery of bonds, notes or warrants, evidencing loans made to accomplish purposes authorized under the provisions of Chapter 5, Acts of the Second Called Session of the Forty-third Legislature, and amendments¹ thereto, and all other laws of the State of Texas, relating to such bonds, notes, or warrants, including the construction, acquisition and equipment of dormitories, kitchens, and dining halls, hospitals, libraries, student activity buildings, gymnasias, athletic buildings and stadia, dormitories for help, laundries, and other buildings, are hereby in all things validated. Any such bonds, notes or warrants heretofore issued, or that may be issued hereafter, pursuant to any order or resolution of any such Board of Directors or Board of Regents heretofore adopted, are in all things fully validated, and such bonds, notes, or warrants, the pledge of the revenues by any such Board of Directors or such Board of Regents to secure and assure the payment of such obligations, and the provisions and covenants as to rates and charges supporting such pledges, are in all things validated, and such bonds, notes, or warrants are hereby declared to be the valid and binding special obligations of such respective Boards of Directors or Boards of Regents, secured by the revenues pledged and not otherwise. It is hereby made the duty of each such Board of Directors or Board of Regents to fix, maintain, and collect charges or rates, sufficient for a reasonable reserve and to pay the interest as it accrues and the principal as it matures of such bonds, notes, or warrants heretofore or hereafter authorized by such Board, as provided in the resolution authorizing such bonds, notes, or warrants. Acts 1941, 47th Leg., p. 663, ch. 404, § 1.

¹ Article 2603c.

Approved and effective May 31, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act relating to the subject of bonds, notes, and warrants heretofore issued by the Board of Regents of the University

of Texas, the Board of Directors of the Agricultural and Mechanical College, the Board of Directors of the Texas Technological College, the Board of Regents of the State Teachers Colleges, the Board of Regents of the Texas State College for Women, and the Board of Directors of the Texas College of Arts and Industries, un-

der Chapter 5, Acts of the Second Called Session of the Forty-third Legislature and amendments thereto, and all other laws, including the validating of the bonds, warrants, and notes issued by said Boards, the resolutions and other proceedings authorizing the issuance and the provisions made for the payment of principal and interest of such bonds, warrants, and notes; and making it the duty of said

Boards to fix, maintain, and collect charges or rates sufficient to pay interest and principal as it accrues and matures on bonds, warrants, and notes heretofore or hereafter issued, (pursuant to resolutions heretofore adopted), and to create and maintain reasonable reserves as prescribed in resolutions authorizing the issuance of such securities; and declaring an emergency. Acts 1941, 47th Leg., p. 663, ch. 404.

Art. 2603e. State Cancer Hospital; Division of Cancer Research; establishment and control

Section 1. There are hereby established the Texas State Cancer Hospital and the Division of Cancer Research, which institutions, together with such substations as may be created pursuant hereto, shall be under the control and management of The University of Texas, which shall determine the location within this State of said Texas State Cancer Hospital, said Division of Cancer Research and such substations, and which shall have charge of all building plans, materials, furnishings, equipment, and other properties of or pertaining to said institutions or substations.

Superintendent; selection; qualifications

Sec. 2. The Board of Regents of The University of Texas shall select and employ a superintendent. Said superintendent, who shall be a physician possessing an M. D. Degree, and who shall have had, at least, five (5) years experience practicing medicine, shall have charge of the operation and conduct of said institution and such other powers, duties, and obligations as may be conferred upon him by said Board of Regents.

Medical staff

Sec. 3. The medical staff of said institution shall be selected and employed by the Board of Regents on the recommendation of the superintendent, and may be discharged in like manner.

Diagnostic and treatment substations

Sec. 4. The University of Texas may establish and maintain such diagnostic and treatment substations as may be deemed expedient from time to time, the location, erection, operation, and management thereof to be under the control and direction of The University of Texas, subject to the other provisions of this Act.

Such substations, together with the institutions established hereby, shall conform to the standards of the American College of Surgeons and the American Medical Association.

Purpose of institutions

Sec. 5. Said institutions, together with such substations as may be established pursuant hereto, shall be devoted to the diagnosis, teaching, study, prevention, and treatment of neoplastic and allied diseases.

Patients admitted

Sec. 6. The provisions of House Bill No. 326, Chapter 152, Acts of the Regular Session of the Forty-fifth Legislature,¹ in so far as the same are not in conflict with other provisions set out herein, shall govern and control with reference to the admittance of patients to such institutions and such substations, their support, and other matters relating thereto.

¹ Article 3196a.

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

Rules and regulations as to admitting patients

Sec. 7. Admission to said institutions and to said substations shall be subject to such rules and regulations as may be promulgated by the superintendent from time to time, which shall include written application from the patient or from the guardian of the patient or from some friend or relative of the patient. Such written application shall be upon such forms as may be prescribed by the superintendent and shall show the following:

1. Name of patient.
2. Sex of patient.
3. Age and nativity of patient.
4. A complete statement of the location, description, and value of any property, real or personal, owned, possessed, or held by the patient or by the guardian of the patient.
5. The name of all persons legally liable for the support of the patient, together with a complete statement of the location, description, and value of any property, real or personal, owned, possessed, or held by any such person.
6. The residence of the patient for a period of at least two (2) years next preceding the date of application.
7. The occupation, trade, profession, or employment of the patient.
8. The names and addresses of the parents, children, brothers, and sisters, and other responsible relatives, if any, of the patient.
9. The names, addresses, and ages of any relatives who are or who may have been similarly afflicted.
10. Such other and further information or statements as may be required by the superintendent.

Application for admission as patient

Sec. 8. Every application shall be accompanied by a written request from the attending physician of the patient requesting the admission of such patient, which shall be in such form as may be prescribed by the superintendent and shall show the following:

1. A statement from the physician that he has adequately examined the patient and that such patient has, or is suspected of having, a neoplasm or allied disease, together with a statement showing the duration of the disease, if known, and indicating any accompanying bodily disorder or disorders the patient may have at the time of application.
2. Such other and further information as may be required by the superintendent.

Prerequisites to admission as patient

Sec. 9. No person shall be admitted to said institutions or to said substations until the superintendent is satisfied that all requirements of this Act have been met, subject to such rules and regulations as may be promulgated by the superintendent from time to time governing the admission of patients thereto.

Minimum fees; schedule

Sec. 10. A schedule of minimum fees and charges shall be established hereunder by the superintendent, which shall conform to the fees and charges customarily made for similar services in the community in which such services are rendered.

Appropriation

Sec. 11. There is hereby appropriated from the General Revenue Fund of the State of Texas, from funds not otherwise appropriated, the sum of Five Hundred Thousand Dollars (\$500,000), for the location,

equipping, and for the establishing of a Cancer Research Laboratory and Hospital; and provided further that not more than Two Hundred and Fifty Thousand Dollars (\$250,000) of said amount shall be used for building and equipment and the remainder of said amount here appropriated shall be used for the hiring of experts, for conducting research, study, experiments, treatment of persons affected by the disease of cancer, and maintenance of Hospital and equipment for the biennium beginning September 1, 1941.

Acceptance of gifts authorized

Sec. 12. The University of Texas is authorized hereby to accept in connection with said institutions or said substations grants or gifts of money from other than State sources.

Partial invalidity

Sec. 13. The fact that any word, phrase, clause, sentence, paragraph, or section of this Act may be declared unconstitutional or invalid by the Courts shall not affect the constitutionality or validity of the remainder thereof. Acts 1941, 47th Leg., p. 878, ch. 548.

Approved June 30, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 14 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to provide for the establishment of a State Cancer Hospital and the Division of Cancer Research, the location, control, and management to be under the supervision of The University of Texas; providing for the selection of a superintendent and prescribing his qualifications and duties; providing for employment of a medical staff by the Board of Regents on recommendation of the superintendent and for their discharge; providing for other employees; providing for establishment and maintenance from time to time of substations; providing for conformity of institutions and substations to standards of American College of Surgeons and the American Medical Association; providing purpose for which institutions and substations are established; providing that the provisions of House Bill No. 326, Chapter

152, Acts of the Regular Session of the Forty-fifth Legislature, in so far as the same are not in conflict with other provisions set out herein, shall govern and control with reference to the admittance of patients to such institutions and such substations, their support, and other matters relating thereto; providing certain information to be furnished by applicant; providing the superintendent may require such additional information as he may deem necessary; providing for statement of attending physician to accompany application; providing for establishment of schedule of fees; appropriating Five Hundred Thousand Dollars (\$500,000) for location, equipping, and establishing a Cancer Research Laboratory and Hospital; appropriating Two Hundred and Fifty Thousand Dollars (\$250,000) for building and equipment; providing for the expenditure of the remainder of the amount appropriated for the biennium beginning September 1, 1941; authorizing the acceptance of gifts or grants of money; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 878, ch. 548.

CHAPTER TWO—AGRICULTURAL AND MECHANICAL COLLEGE

- Art. 2613a—4. Dormitories, office building, additional power and steam plant equipment authorized [New].
- 2613a—5. Eminent domain, power of [New].
- 2613a—6. Dormitories or additions to dormitories for John Tarleton Agricultural College [New].

- Art. 2613b—1. Texas Forest Service employees and others authorized to enter privately owned lands [New].
- 2615c. Airports; Board of Directors authorized to acquire and operate; eminent domain [New].

Art. 2613. 2664-2676 Powers and duties

Sec. 10a. The State Forester may, when the enforcement of the provisions of this Act requires, name the following of his employees: Two District Foresters, four Division Patrolmen, and four Patrolmen, as

peace officers, whose duties and powers shall not exceed the duties of the State Forester as set out in Section 10 hereof. The necessity of such appointments shall be certified to and approved by the board of directors. Added, Acts 1941, 47th Leg., p. 855, ch. 530, § 1.

Approved and effective June 18, 1941.

Section 2 of the amendatory Act of 1941 the Act should take effect from and after declared an emergency and provided that its passage.

Art. 2613a—4. Dormitories, office building, additional power and steam plant equipment authorized

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to construct or acquire, and equip without cost to the State of Texas except as provided herein, four (4), or any number less than four (4), dormitories, an office building (for purposes and subject to limitations contained in Section 5 hereof), and construct or acquire additional equipment for its present central power and steam plant (subject to limitations contained in Section 4 hereof), when the total cost, type of construction, capacity, and plans and specifications therefor have been approved by such Board of Directors, provided, however, that the Legislature shall never make an appropriation out of the General Fund of the State, either in the regular Appropriation Bill, or in a supplemental or emergency appropriation bill, for the purpose of equipping or for the purpose of purchasing or installing any utility connections in any of the buildings erected or improved under and by virtue of the provisions of this Act.

Fees, rentals and charges

Sec. 2. That said Board of Directors is authorized to fix fees, rentals and charges for the use of such buildings, and to make parietal rules to assure maintenance of a maximum percentage of use and occupancy of such buildings. The charges to be made and the fees to be fixed against students and others using any such buildings shall be in amounts deemed to be reasonable by the Board, taking into consideration the cost of providing said building, the use to be made of it, and the advantages to be derived therefrom.

Bonds authorized; terms; payment

Sec. 3. For the purpose of constructing or acquiring, extending or improving and equipping any one or more of said buildings, said Board of Directors is authorized to issue, sell, and deliver its negotiable revenue bonds, from time to time and in such amounts or amount as it may consider necessary. Bonds issued under this Act shall mature serially or otherwise not exceeding thirty (30) years from their date, bear interest at a rate or rates not exceeding four (4) per cent per annum, shall be payable at such place or places, may contain option of payment prior to maturity upon terms stated therein, and such provisions for registration as to ownership, as shall be prescribed by said Board in the resolution authorizing the issuance of said bonds. To assure the prompt payment of the principal and interest of said bonds the Board is authorized to pledge the net revenues from the operation of said building or buildings, constructed or acquired with the proceeds of said bonds, and may secure said bonds additionally by pledging the surplus or the unpledged net revenues from any one or more of the other buildings mentioned in Section 1, from kitchens and dining halls, dormitories, dormitory for help, or laundry, heretofore or hereafter constructed or acquired; provided that the Board shall have full authority to pledge the revenues

from any number or all of such sources. It shall be the duty of the Board to fix fees, rentals and charges so that such revenues will be sufficient to pay the maintenance and operation expenses of the building whose revenues are thus pledged, the principal and interest of said bonds, and to provide reasonable reserves.

Water, steam, power, electricity, furnishing of; pledge of revenues

Sec. 4. Said Board is authorized to furnish water, steam, power, electricity, or any or all of such services from the central plant owned by the institution, to any or all dormitories, kitchens and dining halls, hospitals, student activity buildings, gymnasias, athletic buildings and stadia, the office building constructed pursuant to Section 5 hereof, the dormitory for help, laundry, and such other revenue-producing buildings or facilities as may have been or may be constructed for the good of the institution or the moral welfare and social conduct of the students of such institution, and shall determine the amount to be charged as a part of the maintenance and operation expense of such buildings or facilities for such service or services. The Board is authorized to pledge the net revenues from the amounts thus received for said services to pay the principal and interest of, and to create and maintain the reserve for the negotiable revenue bonds issued for the purpose of acquiring the additional equipment for said central power and steam plant, and may so use said bonds additionally by pledging the surplus of the unpledged net revenues from any one or more of the other buildings mentioned in Section 1, or of kitchens and dining halls, dormitories, dormitory for help, or laundry, heretofore or hereafter constructed or acquired, provided that the Board shall have full authority to pledge the revenues from any number or all of such sources.

Office building authorized; use; lease to government; pledge of revenues

Sec. 5. The Board is authorized to construct, equip and lease an office building to be used by the institution directly or, with consent of said Board, by any agency of the United States Government to house activities of the Department of Agriculture of the United States or activities of the United States Government in connection with the National Defense Program, provided that the total cost of constructing or acquiring and equipping said building shall not exceed Three Hundred Thousand Dollars (\$300,000). The Board is authorized to pledge for the payment of negotiable revenue bonds issued for such purpose, the net revenues derived from the operation of such office building, including any rentals or lease consideration to be paid by such agency of the United States Government so long as such lease or rental agreements or renewals thereof shall be effective. In the event, and only in the event, that the lease of the United States Government, or an agency thereof, on the above-described office building should be surrendered by the Government or its agency, and such building be converted into a dormitory, the Board may additionally secure the bonds against such office building by pledging the surplus or the unpledged net revenues from any one or more of the other buildings mentioned in Section 1, or of kitchens and dining halls, dormitories, dormitories for help, or laundry, heretofore or hereafter constructed or acquired, or from any one or all of such sources, to become effective upon the happening of such event.

Refunding bonds; pledge of revenues

Sec. 6. The Board is authorized to issue negotiable refunding bonds for the purpose of taking up, at or prior to maturity, all or any part of an issue of revenue bonds issued either under this Act or under other laws,

and to include in a refunding issue the revenue bonds of several issues. It is authorized to include in a single issue bonds for the purpose of refunding outstanding bonds and new bonds to obtain additional funds for purposes authorized in this Act. All of such refunding bonds, or refunding and construction bonds, shall be secured by a pledge of revenues pledged for the payment of said refunded or underlying bonds, and the net revenues from the buildings or facilities for which such construction bonds are issued, and may be additionally secured by pledging the surplus or the unpledged net revenues from any one or more of the other buildings or facilities mentioned in Section 1, or of kitchens and dining halls, dormitories, dormitory for help, or laundry, heretofore or hereafter constructed or acquired; provided that the Board shall have full authority to pledge the revenues from any number of such sources.

Priorities as between pledges of revenue

Sec. 7. After the revenues of any building or of any facilities, constructed or acquired pursuant to this Act, shall have been pledged to the payment of revenue bonds, any subsequent pledge of such revenues shall be inferior to such pledge previously made.

Revenue bonds not an indebtedness; use of local funds

Sec. 8. The revenue bonds authorized in this Act shall not constitute indebtedness of the State of Texas or said institution, and the holders thereof shall never have the right to demand payment of principal or interest out of funds other than those pledged to the payment of such bonds. In order to prevent or relieve a default in the payment of principal or interest or in creating or maintaining the reasonable pledged reserve for revenue bonds issued for purposes authorized in this Act, said Board may in its discretion use local funds; provided that not more than twenty-five (25) per cent of the estimated local funds available during any one fiscal year can be used for such purposes; and provided that local funds shall not be used for such purpose in an amount which with reasonable certainty should necessitate supplementing such local funds by additional legislative appropriation.

Approval and registration of bonds

Sec. 9. Before any such revenue bonds are delivered to the purchaser, or before any refunding revenue bonds are delivered in exchange for original bonds, the record pertaining thereto shall have been examined by the Attorney General, and said record and bonds shall be approved by the Attorney General. After such approval the bonds shall be registered in the office of the Comptroller of Public Accounts, and no refunding bonds shall be registered until a like principal amount of said original bonds shall have been surrendered and cancelled by the Comptroller. Such bonds having been approved by the Attorney General and registered in the Comptroller's office shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Brokerage and attorneys fees

Sec. 10. No brokerage fee, or commission, or attorney's fees in excess of Twenty-five Hundred Dollars (\$2,500), shall be paid out of the funds of the A & M College of Texas, or out of the funds to be derived from the bonds or other evidences of obligation authorized herein.

Law as cumulative; conflicting laws

Sec. 11. This law shall be cumulative of all other laws applicable to said institution and is not intended to repeal other existing laws on the subject, but to the extent that the provisions of this Act are inconsistent with or are in conflict with the provisions of other laws, the provisions of this Act shall be effective. Acts 1941, 47th Leg., p. 165, ch. 121.

Approved and effective April 11, 1941.

Section 12 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Board of Directors of the Agricultural and Mechanical College of Texas to construct or acquire, and equip not more than four dormitories, an office building, and additional power and steam plant equipment; authorizing and requiring said Board to fix fees, rentals, and charges for the use of such buildings and to make parietal rules concerning the same; authorizing the issuance of negotiable revenue bonds payable from and secured by revenues from such buildings and of certain other buildings heretofore or hereafter constructed or acquired; authorizing said Board to furnish to certain buildings water, steam, power and electricity from the plant owned by the institution, to charge for such services as a part of the maintenance and operation expense of such buildings and to issue negotiable revenue bonds secured by and payable from the net revenues from such charges for the purpose of constructing or acquiring additional equipment for such plant, and additionally to secure such revenue

bonds by pledging the net revenues from other specified buildings; authorizing said Board to construct, equip and lease an office building for certain purposes and to issue negotiable revenue bonds secured by and payable from the net revenues from such office building and from other specified buildings; authorizing the issuance of negotiable refunding bonds, and of refunding and construction bonds, secured by and payable from revenues as herein provided; providing that bonds authorized in this Act shall not constitute an indebtedness of the State of Texas or of said institution and that the holders of such revenue bonds shall never have the right to demand payment out of funds other than those pledged for their payment; authorizing under named restrictions use of a portion of the local funds to prevent or relieve a default or to create or maintain a reserve for such bonds; requiring approval of such bonds by the Attorney General, and prescribing the effect thereof; requiring registration by the Comptroller of Public Accounts; making this Act cumulative of other laws but giving precedence to the provisions of this Act; enacting other provisions relating to the subject hereof; and declaring an emergency. Acts 1941, 47th Leg., p. 165, ch. 121.

Art. 2613a—5. Eminent domain, power of

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is hereby vested with the power of eminent domain to acquire for the use of said College such lands as may be necessary and proper for carrying out its purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas of 1925,¹ as amended.

Sec. 2. The taking of such property is hereby declared to be for the use of the State. Said Board of Directors of the Agricultural and Mechanical College shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioners as provided in Section 2, of Article 3268, Revised Civil Statutes of Texas of 1925. Acts 1941, 47th Leg., p. 471, ch. 297.

¹ Articles 3264-3271.

Approved and effective May 16, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act conferring upon the Board of Directors of the Agricultural and Mechanical

College of Texas the power of eminent domain to acquire land for the use of the College; exempting said Directors from depositing bond as provided in Section 2, of Article 3268, Revised Civil Statutes of Texas of 1925; and declaring an emergency. Acts 1941, 47th Leg., p. 471, ch. 297.

Art. 2613a—6. Dormitories or additions to dormitories for John Tarleton Agricultural College

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas, for the use and benefit of John Tarleton Agricultural

College, at Stephenville, Texas, is authorized to construct or acquire, and equip, without cost to the State of Texas except as provided herein, not more than two dormitories, or to construct and equip additions to not more than two existing dormitories (such new dormitories or additions being referred to in this Act as "dormitories"), when the total cost, type of construction, capacity, and plans and specifications therefor have been approved by such Board of Directors, provided, however, that the Legislature shall never make an appropriation out of the General Fund of the State, either in the regular appropriation bill or in a supplemental or emergency appropriation bill, for the purpose of equipping or for the purpose of purchasing or installing any utility connections in any of the dormitories erected under and by virtue of the provisions of this Act.

Fees; rentals; charges; rules

Sec. 2. That said Board of Directors is authorized to fix fees, rentals, and charges for the use of such dormitories, and to make parietal rules to assure maintenance of a maximum percentage of use and occupancy thereof. The charges to be made and the fees to be fixed against students and others using any such dormitory shall be in amounts deemed by the Board to be reasonable, taking into consideration the cost of providing said dormitory, the use to be made of it, and the advantages to be derived therefrom.

Revenue bonds authorized

Sec. 3. For the purpose of constructing or acquiring, and equipping any one or more of said dormitories, said Board of Directors is authorized to issue, sell, and deliver its negotiable revenue bonds, from time to time and in such amounts or amount as it may consider necessary. Bonds issued under this Act shall mature serially or otherwise not exceeding thirty (30) years from their date, bear interest at a rate or rates not exceeding four (4) per cent per annum, shall be payable at such place or places, may contain option of payment prior to maturity upon terms stated therein, and such provisions for registration as to ownership, as shall be prescribed by said Board in the resolution authorizing the issuance of said bonds. To assure the prompt payment of the principal and interest of said bonds the Board is authorized to pledge the net revenues from the operation of said dormitory or dormitories, constructed or acquired with the proceeds of said bonds, and may secure said bonds additionally by pledging the surplus or the unpledged net revenues from any one or more of its dormitories, kitchens, and dining halls, heretofore or hereafter constructed or acquired; provided that the Board shall have full authority to pledge the revenues from any number or all of such sources. It shall be the duty of the Board to fix fees, rentals, and charges so that such revenues will be sufficient to pay the maintenance and operation expenses of the dormitory or dormitories, and other buildings whose revenues are thus pledged, the principal and interest of said bonds, and to provide reasonable reserves.

Refunding bonds

Sec. 4. The Board is authorized to issue negotiable refunding bonds for the purpose of taking up, at or prior to maturity, all or any part of an issue of revenue bonds issued either under this Act or under other laws, and to include in a refunding issue the revenue bonds of several issues. It is authorized to include in a single issue, bonds for the purpose of refunding outstanding bonds and new bonds to obtain additional funds for purposes authorized in this Act. All such refunding bonds, or refunding and construction bonds, shall be secured by a pledge of revenues pledged for the payment of said refunded or underlying bonds,

and the revenues from the buildings for which such construction bonds are issued, and may be additionally secured by pledging the surplus or the unpledged revenues from any one or more of its dormitories, kitchens, and dining halls, heretofore or hereafter constructed or acquired; provided that the Board shall have full authority to pledge the revenues from any number of such sources.

Pledge of revenues

Sec. 5. After the revenues of any dormitory constructed or acquired pursuant to this Act shall have been pledged to the payment of revenue bonds, any subsequent pledge of such revenues shall be inferior to such pledge previously made.

Bonds not indebtedness of state

Sec. 6. The revenue bonds authorized in this Act shall not constitute indebtedness of the State of Texas, or of said Board of Directors, or of said Institution, and the holders thereof shall never have the right to demand payment of principal or interest out of funds other than those pledged to the payment of such bonds. In order to prevent or relieve a default in the payment of principal or interest or in creating or maintaining the reasonable pledged reserve for revenue bonds issued for purposes authorized in this Act, said Board may in its discretion use local funds; provided that not more than twenty-five (25) per cent of the estimated local funds available during any one fiscal year can be used for such purposes; and provided that local funds shall not be used for such purpose in an amount which with reasonable certainty should necessitate supplementing such local funds by additional legislative appropriation.

Approval of bonds

Sec. 7. Before any such revenue bonds are delivered to the purchaser, or before any refunding revenue bonds are delivered in exchange for original bonds, the record pertaining thereto shall have been examined by the Attorney General, and said record and bonds shall be approved by the Attorney General. After such approval the bonds shall be registered in the office of the Comptroller of Public Accounts, and no refunding bonds shall be registered until a like amount of said original bonds and matured unpaid coupons, if any, shall have been surrendered and cancelled by the Comptroller. Such bonds having been approved by the Attorney General and registered in the Comptroller's office shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Brokerage fees

Sec. 8. No brokerage fee or commission shall be paid out of the funds of John Tarleton Agricultural College, or out of the funds to be derived from the bonds or other evidences of obligation authorized herein.

Effect of act

Sec. 9. This law shall be cumulative of all other laws applicable to said Institution and is not intended to repeal other existing laws on the subject, but to the extent that the provisions of this Act are inconsistent

with or are in conflict with the provisions of other laws, the provisions of this Act shall be effective. Acts 1941, 47th Leg., p. 639, ch. 386.

Approved and effective May 28, 1941.

Section 10 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Board of Directors of the Agricultural and Mechanical College of Texas, for the use and benefit of John Tarleton Agricultural College, to construct or acquire, and equip not more than two dormitories, or to construct and equip additions to not more than two existing dormitories; authorizing and requiring said Board to fix fees, rentals, and charges for the use of such dormitories and to make parietal rules concerning the same; authorizing the issuance of negotiable revenue bonds payable from and secured by revenues from such dormitories and of certain dormitories heretofore or hereafter constructed or acquired; authorizing the issuance of negotiable refunding bonds, and of refunding and construction bonds, secured by and payable from revenues as herein provided; providing that

bonds authorized in this Act shall not constitute an indebtedness of the State of Texas, or of said Board of Directors, or of said Institution and that the holders of such revenue bonds shall never have the right to demand payment out of funds other than those pledged for their payment; authorizing under named restrictions use of a portion of the local funds to prevent or relieve a default or to create or maintain a reserve for such bonds; requiring approval of such bonds by the Attorney General, and prescribing the effect thereof; requiring registration by the Comptroller of Public Accounts; providing no brokerage fee or commission shall be paid out of the funds of John Tarleton Agricultural College, or out of the funds to be derived from the bonds or other evidences of obligation authorized herein; making this Act cumulative of other laws but giving precedence to the provisions of this Act; enacting other provisions relating to the subject hereof; and declaring an emergency. Acts 1941, 47th Leg., p. 639, ch. 386.

Art. 2613b—1. Texas Forest Service employees and others authorized to enter privately owned lands

Authority is hereby granted to all employees of the Texas Forest Service and such outside labor or assistance as the employee deems necessary to enter upon any privately owned lands in the performance of their fire suppression duties which are by State law under the direction of the State Forester. Said entries on privately owned lands to be made whenever it is necessary to investigate forest and grass fires and ascertain whether they are burning uncontrolled or not, and whenever it is necessary to suppress forest and grass fires that are known to be burning uncontrolled. Acts 1941, 47th Leg., p. 856, ch. 531, § 1.

Approved and effective June 18, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing employees of the Texas Forest Service and such additional

outside help or assistance they might call on to enter on any privately owned lands for the purpose of investigating and controlling forest and grass fires that appear to be or are burning uncontrolled; and declaring an emergency. Acts 1941, 47th Leg., p. 856, ch. 531.

Art. 2615c. Airports; Board of Directors authorized to acquire and operate; eminent domain

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to construct or acquire otherwise, an airport for said institution and is authorized to acquire an airport for any one or more of the branches of said institution, and to maintain and operate same in connection with the teaching of its courses in aeronautical engineering, and for purposes in cooperation with the National Defense Program, and for other purposes which will not interfere with such uses.

Sec. 2. Said Board of Directors shall have the power and is hereby authorized to acquire by purchase, lease, gift, or in any other manner, and

to maintain, use and operate any and all property of any kind, real, personal or mixed, or any interest therein necessary or convenient to the exercise of the powers conferred upon it by this Act. Said Board shall have the power of eminent domain for the purpose of acquiring by condemnation any and all property of all kinds, real, personal or mixed, or any interest therein necessary or convenient to the exercise of the powers and rights conferred upon it by this Act. Said Board shall exercise the right of eminent domain in the manner provided by General Law, including Article 3264 et seq. of the Revised Statutes and amendments thereto, except that it shall not be required to give bond for appeal or bond for costs. Acts 1941, 47th Leg., p. 100, ch. 81.

Approved and effective March 27, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Board of Directors of the Agricultural and Mechanical

College of Texas to acquire, and maintain and operate airports for said institution and its branches; conferring the right of eminent domain; enacting other provisions in reference to the subject, and declaring an emergency. Acts 1941, 47th Leg., p. 100, ch. 81.

CHAPTER 5.—COLLEGE OF INDUSTRIAL ARTS

Art.

2623a—2a. Secretary-Treasurer of Board of Directors; remuneration [New].

Art. 2623a—2a. Secretary-Treasurer of Board of Directors; remuneration

The Board of Directors of the Texas College of Arts and Industries may, at their discretion, select from among their membership one individual to serve as Secretary-Treasurer of the Board of Directors, and may remunerate him a sum not to exceed Fifty (\$50.00) Dollars per month, from the institutional funds that are normally expended under their authority. Acts 1929, 41st Leg., p. 627, ch. 286, § 2a, added Acts 1941, 47th Leg., p. 151, ch. 111, § 1.

Filed without the Governor's signature, April 12, 1941.

Effective April 24, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER NINE—STATE TEACHERS' COLLEGES

1. GENERAL PROVISIONS

Art.

2647b. Eminent domain, power of [New].

1. GENERAL PROVISIONS

Art. 2647. Board of regents

Eminent domain, power of, see also article 2647b.

Art. 2647b. Eminent domain, power of

Section 1. The Board of Regents of the Texas State Teachers Colleges is hereby vested with the power of eminent domain to acquire for

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

the use of said Colleges such lands as may be necessary and proper for carrying out their purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas of 1925, as amended.

Sec. 2. The taking of such property is hereby declared to be for the use of the State. Said Board of Regents of the State Teachers Colleges shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioners as provided in Section 2, of Article 3268, Revised Civil Statutes of Texas of 1925. Acts 1941, 47th Leg., p. 667, ch. 409.

Approved and effective May 31, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act conferring upon the Board of Regents of the Texas State Teachers Col-

leges the power of eminent domain to acquire land for the use of the Colleges; exempting said Regents from depositing bond as provided in Section 2, of Article 3268, Revised Civil Statutes of Texas of 1925; and declaring an emergency. Acts 1941, 47th Leg., p. 667, ch. 409.

CHAPTER 9A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art.

2654c—1. Building use fees in certain state colleges; proceeds used for capital improvements [New].

Art.

2654e. Exemption from tuition fees of students from other nations of American continents; limitation on number [New].

Art. 2654c. Tuition rates in State institutions of collegiate rank

Sec. 1.

(6) Officers, enlisted men, selectees or draftees of the Army, Army Reserve, National Guard, Navy, Naval Reserve, or the Marine Corps of the United States, who are stationed in Texas by assignment to duty within the borders of this State, shall be permitted to enroll their children in State institutions of higher learning by paying the tuition fees and other fees or charges provided for regular residents of the State of Texas, without regard to the length of time such officers, enlisted men, selectees or draftees have been stationed on active duty within the State. Added Acts 1941, 47th Leg., p. 873, ch. 544, § 1.

Approved and effective June 30, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

Art. 2654c—1. Building use fees in certain state colleges; proceeds used for capital improvements

Section 1. The Board of Regents of the University of Texas and its branches, the Board of Directors of the Agricultural and Mechanical College and its branches, the Board of Directors of Texas Technological College, the Board of Regents of the State Teachers Colleges, the Board of Directors of the Texas State College for Women, and the Board of Directors of the College of Arts and Industries, are hereby severally authorized and empowered to charge each student enrolled in such institution a building use fee of not exceeding Five Dollars (\$5) per semester, provided, however, this fee shall be a part of the fees now collected and no additional fees shall be collected for any purpose, all or a portion of which may be pledged for the retirement of bonds for the construction and equipment of buildings and power plants, the paving of streets, the purchase of land, and for

such other capital improvements as may be needed from time to time for the efficient functioning of the aforesaid institutions, subject to the provisions of this Act, provided, however, that the building use fee herein authorized to be collected shall be included as a part of the fees authorized to be collected by Article 2654c of the Revised Civil Statutes of the State of Texas, Acts of the Forty-third Legislature, page 596, Chapter 196, and the governing boards of the several institutions of higher learning herein enumerated shall not increase tuition at said institutions in excess of the amounts authorized by said Article 2654c.

Sec. 2. The acquisition and the construction of the capital improvements contemplated in this Act shall be made without cost to the State of Texas, and no bonds issued for such improvements shall constitute a debt of the State of Texas in any manner whatsoever, but shall be a charge only against those revenues specifically pledged for their payment, provided, however, that the Legislature shall never make an appropriation out of the General Fund of the State, either in the Regular Appropriation Bill or in a Supplemental or Emergency Appropriation Bill, for the purpose of equipping or furnishing or for the purpose of purchasing or installing any utility connections in any of the buildings erected or improved by virtue of the provisions of this Act.

Sec. 3. The building use fee authorized by this Act, when collected, shall be deposited in the depository bank of the institution collecting the tax or in such other depository as may be designated by such Board. The funds accruing from the building use fee shall be deposited in a special account definitely describing the purpose for which the fee was collected and the object or objects for which it is to be applied, and all funds deposited in such special accounts shall be accorded the same protection by the pledging of assets of the depository as is now required or may hereafter be required by law for the protection of public funds.

Sec. 4. Such fees shall be collected at the time the regular registration fees are collected and by the same officials collecting the registration fees.

Sec. 5. Students taking less than twelve (12) credit hours of work shall pay such fractional part of the fee fixed for those taking twelve (12) or more credit hours as the ratio of the hours actually taken bears to twelve (12). The fee for students in the summer session shall be computed on the same basis as for students enrolling for twelve (12) hours or less in the long session.

Sec. 6. For the purpose of constructing or otherwise acquiring, improving, or equipping any one or more of the buildings, power plants, or streets, or acquiring lands authorized by Section 1 of this Act, the governing body of each of said institutions is authorized to issue, sell, and deliver its negotiable revenue bonds from time to time in such amount or amounts as it may consider necessary. Bonds issued under this Act shall mature serially or otherwise in not exceeding thirty (30) years from their date, bear interest at not exceeding four (4) per cent per annum; shall be payable at such place or places, may contain option of payment prior to maturity and such provisions for registration as to ownership, as shall be determined by said Board. To assure the prompt payment of the principal and interest of said bonds, such Board is authorized to pledge all or any portion of the proceeds of the building use fee authorized in Section 1 of this Act, and said bonds may be additionally secured by a pledge of the net revenues from buildings and

facilities to be constructed, acquired, or improved with the proceeds of such bonds and from other buildings or facilities heretofore or hereafter constructed or acquired. When such bonds are secured solely by the building use fees authorized in this Act, it shall be the duty of such governing body to fix the amount of such fees (within the maximum rate of Five Dollars (\$5) per semester) so that the proceeds therefrom will be sufficient to pay the interest and principal on said bonds as they mature and accrue and to provide a reasonable reserve in the interest and sinking fund of the bonds. When such bonds are secured in whole or in part by a pledge of the net revenues from buildings or facilities, it shall be the duty of such governing body to fix rentals and charges for the buildings and facilities whose net revenues are thus pledged, at rates sufficient to pay the maintenance and operation expense of such buildings and facilities and to produce net revenues which, together with the building use fee authorized in Section 1 of this Act, will be sufficient to pay the interest and principal of such bonds as they accrue and mature.

Sec. 7. The governing Boards of the aforesaid institutions shall not be permitted to contract bonded indebtedness under the terms of this Act in excess of eighty (80) per cent of the amount which can be amortized with the revenues from said building use fee estimated at the time of the authorization of such revenue bonds. Revenues accruing from said fee in excess of the amount normally required for the orderly retirement of said bonds shall be held as surplus in the special bond account designated in Section 3 of this Act as a contingent fund for use when necessary in the event of a reduction of income from a decrease of enrollment.

Sec. 8. Bonds issued under the provisions of this Act shall be eligible investments for the Permanent School Fund of Texas.

Sec. 9. Before any such bonds are delivered to the purchaser the record pertaining thereto shall have been examined by the Attorney General and said record and bonds shall be approved by the Attorney General. After such approval the bonds shall be registered in the office of the Comptroller of Public Accounts. Such bonds, having been approved by the Attorney General, registered in the Comptroller's office, shall be held in every action, suit, or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. Acts 1941, 47th Leg., p. 908, ch. 560.

Passed over Governor's veto, July 2, 1941.

Filed without the Governor's signature, July 2, 1941.

Effective July 2, 1941.

Section 10 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Board of Regents of the University of Texas and the branches thereof, the Board of Directors of the Agricultural and Mechanical College and its branches, the Board of Directors of Texas Technological College, the Board

of Regents of the State Teachers Colleges, the Board of Directors of the Texas State College for Women, and the Board of Directors of the College of Arts and Industries to charge students building use fees of not to exceed Five Dollars (\$5) per semester for the construction and equipment of buildings and power plants, the paving of streets, the purchase of land, and for other capital improvements, providing, however, this fee shall be a part of the fees now collected and no additional fees shall be collected for any purpose; including this fee as a part of fees authorized by Acts of the Forty-third Legislature, page 596, Chapter 196; providing tuitions

at said institutions shall not be increased in excess of amounts heretofore authorized; providing that such acquisition, equipment, and construction shall be without cost to the State of Texas; providing such appropriation shall not be made by the Legislature for the purpose of equipping such buildings; providing for deposit and protection of funds; providing for the issuance of negotiable revenue bonds to be secured by a pledge of such building use fees and that such bonds may be addition-

ally secured by a pledge of the revenues from buildings and facilities of such institutions; making it the duty of the governing boards of such institutions to fix adequate fees and charges; requiring approval of such bonds by the Attorney General and prescribing the effect thereof; providing that bonds issued under this Act shall be eligible investments for the Permanent School Fund of Texas; and declaring an emergency. Acts 1941, 47th Leg., p. 908, ch. 560.

Art. 2654e. Exemption from tuition fees of students from other nations of American continents; limitation on number

The governing boards of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the State Treasury, are hereby authorized and directed to except and exempt five (5) native born students annually from each of the other nations of the American continents from the payment of tuition fees; provided that every applicant claiming the benefit authorized herein shall furnish satisfactory evidence, certified by the proper authority of his native country, that he is a bona fide citizen and resident of the country which certifies his application, and that he is scholastically qualified for admission; provided further that the total number of students entitled to the benefits provided herein shall never exceed one hundred (100) annually; and provided further that the State Board of Education, in cooperation with representatives of the governing boards of the state institutions of higher learning, shall formulate and prescribe a plan for the admission and distribution of all applicants desiring to qualify under the provisions of this Act.

No student shall be allowed to take advantage of this Act who is not a native born citizen of the country certifying his qualifications for receiving the privileges authorized by this Act and who has not lived in one of the nations of the American continents for a period of at least five (5) years. Added Acts 1941, 47th Leg., p. 38, ch. 25, § 1.

Approved and effective March 3, 1941.
Section 2 of the Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

1. STATE SUPERINTENDENT

Art. 2663b—1. Teaching Constitution in school

Courses in military and naval training at University, Regents authorized to request establishment of, see article 2585a.

2. STATE BOARD

Art. 2665. [2729] Shall make apportionment

Supplemental scholastic census where population increases from camps, reserva-

tions or building projects as affecting apportionment, see article 2816a.

Art. 2669. 2736 Investing school fund

Sale of United States Treasury Bonds held as of Sept. 1, 1940. Acts 1941, 47th

Leg., p. 853, ch. 527, approved and effective June 18, 1941, read as follows:

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

"§ 1. The State Board of Education is hereby authorized to sell in such lots or blocks as it deems expedient the United States Treasury Bonds held by the State Treasurer for the account of the Permanent School Fund at September 1, 1940; provided however, that such bonds may not be sold for a lesser price than that

paid for the bonds at the time of purchase thereof.

"§ 2. Upon the making of such sale by the State Board of Education, the State Treasurer shall immediately make delivery of such bonds to the purchaser thereof or to his order, in accordance with the directions of the State Board of Education."

Art. 2675—1. Acceptance of funds from Congress for vocational rehabilitation

Acts 1941, 47th Leg., p. 786, ch. 489, made an appropriation for the biennium ending August 31, 1943, to promote public school interests and to assist local districts in the teaching of vocational agriculture, home economics, trades and industries, vocational rehabilitation, and rehabilitation for crippled children according to the federal laws governing vocational education. Section 4 read as follows: "The State Board for Vocational Education, through its Ex-

ecutive Officer, the State Superintendent, is hereby authorized to receive and disburse in accordance with plans acceptable to the responsible Federal agency, all Federal moneys that are made available to the State of Texas for such purposes as training personnel for National Defense Industries, and for such other activities as come under the authority of the State Board for Vocational Education."

CHAPTER ELEVEN—COUNTY SCHOOLS

1. TRUSTEES

Art.

- 2685b—1. Counties of 5,950 to 6,050; expenses of administering scholastic affairs [New].
- 2687c. Meetings in counties of 48,800 to 50,400; compensation [New].
- 2687d. Meetings of trustees in certain counties; compensation [New].

2. SUPERINTENDENT

- 2700.1 Salary and expenses of county superintendent; assistants; school supervisors; State Available School Fund, remittance of [New].

Art.

- 2700d—41. Office and traveling expenses of county superintendent or ex officio county superintendent in counties of 8,200 to 8,500 [New].
- 2700d—42. Traveling expenses of ex officio county superintendent or assistant in counties of 9,070 to 9,200 [New].
- 2700d—43. Salary and office and traveling expenses of county superintendent in certain counties [New].

1. TRUSTEES

[Art. 2683a. Appropriation and use of donations]

Teachers retirement system, see art. 2922—1 of this title.

Art. 2685. Apportionment of fund

Supplemental scholastic census where population increases from camps, reser-

vations or building projects as affecting apportionment, see article 2816a.

Art. 2685b—1. Counties of 5,950 to 6,050; expenses of administering scholastic affairs

That in each county of this State with a population of not less than five thousand, nine hundred and fifty (5,950) nor more than six thousand and fifty (6,050), as shown by the Federal Census of 1940, the county board of trustees is hereby authorized to set aside from the Available School Fund of the county, in accordance with the provisions of the General Law governing the assessment for the support of the county

superintendent's office, an amount not to exceed Nine Hundred Dollars (\$900) per year to defray the expenses of the County Judge serving as ex officio county superintendent within the county. Acts 1941, 47th Leg., p. 119, ch. 92, § 1.

Filed without the Governor's signature, April 3, 1941.

Effective April 14, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the county board of trustees in counties having a population

of not less than five thousand, nine hundred and fifty (5,950) nor more than six thousand and fifty (6,050), as shown by the Federal Census of 1940, to set aside a certain amount of the Available School Fund apportioned to such counties to defray certain expenses in the administration of the scholastic affairs of such counties; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 119, ch. 92.

Art. 2687c. Meetings in counties of 48,800 to 50,400; compensation

Section 1. In all counties in Texas having a population of not less than forty-eight thousand, eight hundred (48,800) and not more than fifty thousand, four hundred (50,400) inhabitants, according to the last preceding Federal Census, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other time when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent, the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the county courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Five Dollars (\$5) per day for the time spent in attending such meeting not to exceed twenty-four (24) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Sec. 2. The provisions of this Act shall be cumulative of all laws on the subject of this Act when not in conflict herewith, but in case of conflict the provisions of this Act shall control and be effective. All laws in conflict with this Act are hereby repealed to the extent of such conflict. Acts 1941, 47th Leg., p. 1314, ch. 587.

Filed without the Governor's signature, July 1, 1941.

Effective July 2, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the time of meeting of the County Board of School Trustees in counties containing a population of not less than forty-eight thousand, eight hundred (48,800) and not more than fifty

thousand, four hundred (50,400) inhabitants, according to the last preceding Federal Census, the meeting place of said Board, the compensation to be paid each County School Trustee, and the fund out of which said compensation shall be paid; providing that this Act shall be cumulative of all existing laws on this subject when not in conflict and when in conflict the provisions of this Act shall control; repealing all laws in conflict; and declaring an emergency. Acts 1941, 47th Leg., p. 1314, ch. 587.

Art. 2687d. Meetings of trustees in certain counties; compensation

Section 1. In all counties in this State having a population of not less than fifty thousand, nine hundred and fifty (50,950) nor more than fifty-one thousand, one hundred (51,100), all counties having a population of not less than thirty-four thousand (34,000) nor more than thirty-five thousand (35,000), and all counties having a population of not less than twenty-nine thousand, two hundred and twenty-five (29,225) nor

more than twenty-nine thousand, two hundred and forty (29,240), according to the last preceding Federal Census, the County School Trustees shall hold meetings once each quarter on the first Monday in August, November, February, and May, or as soon thereafter as is practicable, or such meetings may be held on the first Monday in each month and at such other times when called by the President of the Board of County School Trustees or at the instance of any two (2) members of such Board and the County Superintendent.

The meeting place shall be at the county seat, and, if convenient, in the office of the County Superintendent. Each Trustee shall be paid Four Dollars (\$4) per day for the time spent in attending such meetings, not to exceed twenty-five (25) days in any one year, to be paid out of the State and County Available School Fund by warrant drawn on the order of the County Superintendent and signed by the President of the Board of County School Trustees, after approval of the account, properly sworn to by the President of the Board of County School Trustees.

Sec. 1a. In all counties in this State having a population of not less than twenty-three thousand and five (23,005) nor more than twenty-three thousand, three hundred (23,300), according to the last available Federal Census as same now exists or may hereafter exist, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Five Dollars (\$5) per day for the time spent in attending such meetings, not to exceed fifteen (15) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Sec. 1b. In all counties in this State having a population of not less than thirty-one thousand, eight hundred and thirty (31,830), nor more than thirty-two thousand, nine hundred and forty-one (32,941), according to the last available Federal Census as same now exists and may hereafter exist, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Four Dollars (\$4) per day for the time spent in attending such meeting, not to exceed eighteen (18) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Sec. 2. The provisions of this Act shall be cumulative of all existing laws on this subject when not in conflict herewith. All laws or

parts of laws in conflict herewith are repealed. Acts 1941, 47th Leg., p. 1302, ch. 577.

Filed without the Governor's signature, July 1, 1941.

Effective July 2, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act applicable to all counties in this State having a population of not less than fifty thousand, nine hundred and fifty (50,950) nor more than fifty-one thousand, one hundred (50,100), all counties having a population of not less than thirty-four thousand (34,000) nor more than thirty-five thousand (35,000), all counties having a population of not less than twenty-nine thousand, two hundred and twenty-five (29,225) nor more than twenty-nine thousand, two hundred and forty (29,240), all counties having a population of not less

than thirty-one thousand, eight hundred and thirty (31,830) nor more than thirty-two thousand, nine hundred and forty-one (32,941), all counties having a population of not less than twenty-three thousand and five (23,005) nor more than twenty-three thousand, three hundred (23,300), according to the last Federal Census, and prescribing the time and place of meeting of the County Board of School Trustees in such counties; providing for compensation to the members of the County Board of School Trustees in such counties and prescribing the fund from which such compensation shall be paid; providing that this Act shall be cumulative of all existing laws on this subject when not in conflict herewith and that all laws or parts of laws in conflict herewith are repealed; and declaring an emergency. Acts 1941, 47th Leg., p. 1302, ch. 577.

2. SUPERINTENDENT

Art. 2691a. Rural school supervisors

School supervisors, qualifications, employment of and salary, see Article 2700.1.

Art. 2691b. Rural school supervisors in Van Zandt and other counties

School supervisors, qualifications, employment of and salary, see article 2700.1.

Art. 2692. 2755 Shall apportion funds

Supplemental scholastic census where population increases from camps, reserva-

tions or building projects as affecting apportionment, see article 2816a.

Art. 2693. [2756] General duties

Teachers' contracts for not exceeding 2 years in common school or consolidated

common school districts, see article 2750a—1.

Art. 2700. [2758] Salary

Salary and expenses of county superintendents under 1941 act, see article 2700.1.

The title of Acts 1941, 47th Leg., p. 407, ch. 237, read as follows: "An Act amending Article 2700, Revised Civil Statutes of Texas, 1925, pertaining to the salaries of elective County Superintendents and to office and traveling expense; providing for salaries of County Superintendents in counties having not more than eight thousand (8,000) scholastic population under certain conditions; providing for assistants to the County Superintendent; providing for supervisors and their compensation; provid-

ing for the manner of payment of county administration expense; providing for budgets for the purpose; providing for administering the Act and repealing all General Laws in conflict herewith except such General Laws as provide for a part of the office expense to be paid out of the general revenue of the county; and declaring an emergency."

However, the act itself contained no enacting clause stating that the act amended article 2700. Therefore the act is published as article 2700.1.

Art. 2700.1. Salary and expenses of county superintendent; assistants; school supervisors; State Available School Fund, remittance of

Section 1. The elective County Superintendents shall receive from the Available School Fund of their respective counties annual salaries based on the scholastic population of such counties as follows:

Population	Amount
3,000 or less	\$1,800.00
3,001 to 4,000	2,000.00
4,001 to 5,000	2,200.00
5,001 to 6,000	2,400.00
6,001 to 7,000	2,600.00
7,001 to 8,000	2,800.00
8,001 to 9,000	3,000.00
9,001 to 12,000	3,200.00
12,001 to 15,000	3,400.00
15,001 to 30,000	3,600.00
30,001 to 40,000	3,800.00
40,001 to 50,000	4,200.00
50,001 and over	4,800.00

Provided, however, in counties having more than thirty-five hundred (3500) scholastics and less than eight thousand and one (8,001) scholastics, where no supervisor is employed and where the total expense for office assistants does not exceed Eighteen Hundred Dollars (\$1800) per annum, the salary of the County Superintendent may be set at a sum not to exceed Three Thousand Dollars (\$3,000) per annum by action of the County Board of Trustees.

In making the annual budget for County Administration expenses the County School Trustees shall make allowance out of the State Available School Fund for salary and expenses of the office of the County Superintendent and the same shall be determined by the resident scholastic population of the county. It shall be the duty of the County Board of Trustees to file the budget for county administration expense with the State Department of Education on or before September first of each scholastic year, the budget to be approved and certified to by the President of the County Board of Education and attested to by the County Superintendent. The compensation herein provided for shall be paid monthly upon the order of the County School Trustees; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt from the State Superintendent showing that he has made all reports required of him. The County Superintendent, with the approval and the confirmation of the County Board of Education, may employ a competent assistant to the County Superintendent at an annual salary not to exceed Two Thousand Dollars (\$2,000) and may also employ such other assistants as necessary provided the aggregate amount of the salaries of such other assistants shall not exceed Twelve Hundred Dollars (\$1200) annually; and the County Board of Education may make further provisions as it deems necessary for office and traveling expenses of the County Superintendent; provided that expenditures for office and traveling expenses of the County Superintendent shall not be less than Three Hundred Dollars (\$300) and not more than Eight Hundred Dollars (\$800) per annum, such expense shall first be proven by affidavit therefor, and said Board is hereby authorized to fix the salary of such assistants and pay same out of the same

funds from which the salary and expenses of the County Superintendent are paid.

Sec. 2. The County Superintendent of Public Instruction may, with the approval of the County Board of Education, employ one or more school supervisors to assist in planning, outlining, and supervising the work of the Public Free Schools in the county which is under the supervision of the County Superintendent of Public Instruction. Said supervisor or supervisors shall at all times work under the supervision and direction of the County Superintendent of Public Instruction, as other assistants are required to do, and must have evidence of proficiency in rural school supervision and must be the holder of at least a Bachelor of Science Degree or higher. Such supervisor or supervisors may receive a salary of not to exceed Two Thousand Dollars (\$2,000) per annum, to be paid out of the same funds and in the same manner as that of the County Superintendent of Public Instruction and other assistants.

Sec. 3. It shall be the duty of the State Superintendent to remit to the depository banks of each of the respective counties the amount of the State Available School Fund provided in the budget of each county, remittance to be made in October and February of each scholastic year, in equal amount.

Sec. 4. The State Superintendent of Public Instruction is hereby authorized to issue and transmit to county officials all instructions necessary for the proper observance and administration of this Act.

Sec. 5. All General and Special Laws in conflict herewith are hereby repealed except such laws as provide for a part of the office expense to be paid out of the general revenue of the county, except that the repealing clause shall not apply to any county that levies a special tax for the maintenance of the office of the County Superintendent in whole or in part. Acts 1941, 47th Leg., p. 407, ch. 237.

Filed without the Governor's signature,
May 9, 1941.

Effective Sept. 1, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after Sept 1,

1941, but the emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

For title of the Act of 1941, cited to the text, see article 2700 note.

Arts. 2700a to 2700d—40.

Salary and expenses of county superintendents under 1941 act, see article 2700.1.

Art. 2700d—41. Office and traveling expenses of county superintendent or ex officio county superintendent in counties of 8,200 to 8,500

In counties having a population of not less than eight thousand, two hundred (8,200) and not more than eight thousand, five hundred (8,500), according to the last preceding Federal Census, the county board of trustees may make such provisions as they deem necessary for office and traveling expenses of the county superintendent of public instruction or, if the county has no county superintendent, for the County Judge when acting as ex officio county superintendent of public instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the main-

tenance of the office of the county superintendent. Acts 1941, 47th Leg., p. 396, ch. 229, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws, general and special. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the allowance of

expenditures for office and traveling expenses of the County Superintendent of Public Instruction in certain counties to apply both when such counties have a school superintendent and when the County Judge is the ex officio county superintendent; repealing all laws or parts of laws in conflict; and declaring an emergency. Acts 1941, 47th Leg., p. 396, ch. 229.

Art. 2700d—42. Traveling expenses of ex officio county superintendent or assistant in counties of 9,070 to 9,200

In counties with a population of not less than nine thousand and seventy (9,070) nor more than nine thousand, two hundred (9,200), as shown by the Federal Census of 1940, the county board of trustees may make such provisions as they deem necessary for traveling expenses of the ex officio county superintendent or any assistant he may have, provided that the amount of the traveling expenses shall not exceed the sum of Six Hundred Dollars (\$600) per annum. The amount of such expenses so allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the ex officio county superintendent. Acts 1941, 47th Leg., p. 442, ch. 278, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws, and section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing the maximum amount that may be allowed by county boards of

trustees to ex officio county superintendents for expenditures for traveling in counties with a population of not less than nine thousand and seventy (9,070) nor more than nine thousand, two hundred (9,200), according to the Federal Census of 1940, repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 442, ch. 278.

Art. 2700d—43. Salary and office and traveling expenses of county superintendent in certain counties

Section 1. From and after the passage of this Act in all counties of the State of Texas which have a population of not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties of the State of Texas which have a population of not less than twenty thousand, five hundred and sixty (20,560) and not more than twenty thousand, five hundred and seventy (20,570); and in all those counties having not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all counties of the State of Texas which have a population of not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315); and in all those counties of the State of Texas having a population of not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Thirty-six Hundred Dollars (\$3600) per annum; to be paid in accordance with and in the manner as provided by the General Law governing the maintenance of the office of County Superintendent, as provided in Article 2700, Revised Civil Statutes, 1925.

Sec. 2. From and after the passage of this Act, in all counties of the State of Texas which have a population of not less than eighty-three thou-

sand (83,000) and not more than eighty-four thousand (84,000); and in all those counties of the State of Texas which have a population of not less than twenty thousand, five hundred and sixty (20,560) and not more than twenty thousand, five hundred and seventy (20,570); and in all those counties of the State of Texas which have a population of not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all those counties of the State of Texas which have a population of not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315); and in all those counties of the State of Texas which have a population of not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235), according to the last preceding Federal Census, the amount which shall be allowed for office and travel expenditures for the County Superintendent of Public Instruction shall be Six Hundred Dollars (\$600) per annum.

Sec. 3. All laws and parts of laws, whether here referred to by Article, Title, or number, or not, General or Special, in conflict herewith are hereby modified and limited to the extent that they are not to be controlling, but the specific provisions of this Act shall be controlling in the counties to which it is made applicable. The provisions of this Act are cumulative of the General Law on the subject, and where not otherwise modified hereby, such General Laws are made applicable. Acts 1941, 47th Leg., p. 1410, ch. 643.

Filed without the Governor's signature, July 25, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for a more adequate and equitable salary and increasing the amount for office and travel expenditures for County Superintendents of Public Instruction in all those counties of Texas coming within the brackets and population figures herein; specifically in all those counties having not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties having not less than twenty thousand, five hundred and sixty (20,560)

and not more than twenty thousand, five hundred and seventy (20,570); and in all those counties having not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all those counties having not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315); and in all those counties having not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235), according to the last preceding Federal Census; modifying all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 1410, ch. 643.

Art. 2701. [2763-4] Ex-officio superintendent

Office and travelling expenses in certain counties, see articles 2700d—41, 2700d—42.

3. RURAL SCHOOL SUPERVISOR

Art. 2701d. Rural supervisor and salary in counties having population of 1,100 to 41,500

School supervisors, qualifications, employment of and salary, see article 2700.1.

Counties of 320,000 to 350,000

Acts 1941, 47th Leg., p. 356, ch. 194, read as follows: "Section 1. That the County Board of School Trustees, in conjunction with the county superintendent, in coun-

ties having a population of not less than three hundred and twenty thousand (320,000) nor more than three hundred and fifty thousand (350,000), according to the last preceding Federal Census, may employ rural school supervisors, not to exceed two (2), to plan, outline, and supervise the work of the primary and intermediate

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

grades of the rural schools of such counties. Each candidate for supervisor must have a college degree and be required to present other appropriate evidence of proficiency in rural school supervision.

"Sec. 2. It shall be the duty of such supervisor or supervisors to visit the schools of the county and help the teachers with their classwork by teaching demonstration lessons for them, suggesting methods of presenting the work, and aiding them in any way possible.

"Sec. 3. The supervisors, when authorized by the county superintendent, may call meetings of the teachers when deemed necessary for the purpose of discussing their work with them, and it shall be the duty of such teachers to attend all such meetings, whenever possible.

"Sec. 4. The salaries of such rural supervisors shall be determined by the County Board of School Trustees, providing that the total salary paid to any such supervisor shall not exceed Two Thousand, Two Hundred Dollars (\$2,200) for any one year, inclusive of traveling expenses. The said salaries shall be paid out of the State Available Funds apportioned to the com-

mon school districts of said county each scholastic year by a per capita assessment for that purpose, levied by the County School Board not later than September 1st of each scholastic year, provided that the payment of such assessment may be made in two (2) equal installments, the first on or before October 1st, and the second on or before March 1st of each successive school year.

"Sec. 5. The County Board of School Trustees shall have the power to discontinue the office of rural school supervisor at any time such board may consider the same desirable.

"Sec. 6. The employment of a rural supervisor under the terms of this Act shall exempt the county superintendent from holding Teachers Institute for rural teachers and teachers of independent districts of the county and shall exempt the teachers from attendance upon a Teachers Institute as provided in Article 2691, Revised Civil Statutes of Texas, 1925, and as amended by the Fortieth Legislature."

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

[Art. 2701d—3. Supervisor's salary and duties in other counties]

Counties of 37,250-38,350

Acts 1941, 47th Leg., p. 676, ch. 418, effective June 6, 1941, read as follows: "Section 1. That the County Board of School Trustees in counties having a population of thirty-seven thousand, two hundred and fifty (37,250) to thirty-eight thousand, three hundred and fifty (38,350) according to the last preceding Federal Census and a scholastic population of at least eight thousand, five hundred (8,500) as shown by the scholastic report for the preceding school year may employ a rural school supervisor or supervisors to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisor shall have a college degree or other appropriate evidence of proficiency in rural supervision.

"Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their

class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other way possible.

"Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

"Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed Two Thousand Dollars (\$2,000). Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salaries of the teachers of the district or may be apportioned out of the State and county apportionment."

CHAPTER TWELVE—COUNTY UNIT SYSTEM

Art.

2740f—3. County unit system in counties of 7,500 to 7,590 [New].

Art.

2740f—4. County unit system in counties of 10,339 to 10,540; powers and duties of Commissioners' Court [New].

Art. 2702. Election

Upon the petition, duly signed and verified by the tax rolls of the county, of five hundred (500) qualified voters of any county having a population of one hundred thousand (100,000) or over, or upon the petition duly signed and verified by the tax rolls of the county of one hun-

dred (100) qualified voters of any county having a population of not less than three thousand nine hundred sixty (3,960) and not more than four thousand (4,000), and a county having a population of not less than eight thousand six hundred (8,600) and not more than nine thousand (9,000), according to the preceding Federal Census, the County Judge shall call an election in said county within ninety (90) days thereafter to determine whether or not such county shall adopt what is commonly known as the County Unit System of Education, provided for under this law; such election to be governed by the laws governing the holding of a primary election in and for a county, in which said election is called. Separate elections shall be held in each Commissioner's Precinct in the County, and it shall require a majority vote in each such Commissioner's Precinct before the consolidation may be ordered by the Commissioners' Court. And the Commissioners' Court is hereby constituted the canvassing board for each of such precincts and the elections therein. Said election shall be held on the same day and in the same manner as provided for the holding of primary elections in this State. The County Judge shall prepare a proper form of ballot to be used in such election, and furnish such explanations of the law as in his judgment may be necessary, and transmit the same to the presiding officer of each election precinct. The results of said election shall be certified by the County Judge to the Secretary of State, and shall take effect as soon as the County Board of Education hereinafter provided for has been duly elected and qualified; and this law shall take the place of any existing General or Special Law affecting said county which may be in conflict with the provisions hereof. As amended Acts 1941, 47th Leg., p. 176, ch. 128, § 1.

Filed without the Governor's signature
April 16, 1941.

Effective April 28, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2740f. Repealed. Acts 1941, 47th Leg., p. 218, ch. 150, § 9. Eff. April 18, 1941

The repealing section contained a proviso "that such repeal shall not affect taxes heretofore levied under said laws".

Art. 2740f was derived from Acts 1933, 43rd Leg., 1st C.S., p. 12, ch. 7, as amended Acts 1937, 45th Leg., p. 90, ch. 54, § 1, relating to County wide maintenance tax.

Art. 2740f—1. Repealed. Acts 1941, 47th Leg., p. 218, ch. 150, § 9. Effective April 18, 1941

The repealing section contained a proviso "that such repeal shall not affect taxes heretofore levied under said laws."

Art. 2740f—1 was derived from Acts

1937, 45th Leg., p. 90, ch. 54, § 2, relating to validation of prior actions of Commissioner's Court, the county officials or officials of school districts.

Art. 2740f—3. County unit system in counties of 7,500 to 7,590

Section 1. Any county in this State containing a population of not less than seven thousand, five hundred (7,500) nor more than seven thousand, five hundred and ninety (7,590) according to the last preceding Federal Census, or any future Federal Census, shall have a county unit system of education to the extent specified in this Act, and for the purpose of levying, assessing, and collecting a school equalization tax, and for such other administrative functions as are herein set forth; the territory of each of such counties may be created into a county-wide school district in the manner hereinafter provided and may exercise the taxing power as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act

prescribed, the taxing power conferred on school districts, by Article 7, Section 3, of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. On the petition of as many as one hundred (100) legally qualified voters of any county coming under the provisions of this Act praying for the formation of such county-wide school district, the County Judge shall, within thirty (30) days, order an election to be held throughout the county. The County Judge shall give notice of the date of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election, and all legally qualified voters shall be allowed to vote at said election. The form of ballot shall be substantially as follows:

“For Equalization District.”

“Against Equalization District.”

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of votes cast shall favor the formation of such district, the Court shall declare the result thereof and declare the county-wide school equalization district duly and legally created and the provisions of this Act duly adopted.

Sec. 3. The general management, supervision, and control of the public schools and of the educational interests of each county adopting the provisions of this law shall be vested in the County Board of School Trustees for such county-wide district. Any such county-wide school equalization district formed in the manner hereinabove provided may levy and collect annually on all taxable property in the county an equalization tax not to exceed twenty (20) cents on the one hundred dollars valuation of property situated in said county and the money derived from such tax shall be known as an Equalization Fund for the support of the public schools of the county, which Fund shall be distributed to the school districts of the county as provided herein.

Sec. 4. On the petition of as many as one hundred (100) legally qualified property taxpaying voters of any county which shall have adopted the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days from the date of such order. The County Judge shall give notice of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election. Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote in said election. The form of ballot is substantially as follows:

“For County Tax.”

“Against County Tax.”

The Commissioners Court shall, at its next regular or special meeting, canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the Court shall declare the results and certify same to the County Board of School Trustees and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which said tax was adopted.

Sec. 5. In the counties adopting the provisions of this law, the County Tax Assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for State and county pur-

poses, and the County Tax Collector shall collect said tax at the same time and in the same manner as other State and county taxes are collected. The Tax Collector shall deposit the money collected from said tax in a separate fund to be known as the County Equalization Fund for the support of the public schools of the county. He shall have the same authority, and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or about the 10th of each month, make a report to the County Board of School Trustees and to the County Superintendent of Schools, showing all moneys collected by him during the last month by said tax, and shall each month place such funds in the Equalization Fund. The County Superintendent shall keep a record, both received and paid out, of all moneys from said Fund. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts; however, no part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon, and the moneys received and held by independent school districts shall be protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The Tax Collector, before entering upon the duties of his office, shall enter into a bond, with two (2) or more good and sufficient sureties, or surety bond, for the protection of said Equalization Fund, said bond to be made payable to the County Board of School Trustees. The County Board shall require a similar bond of any and all other persons or corporations in whose possession such funds may be kept.

Sec. 7. The County Board of School Trustees shall distribute the money collected from any taxes levied by said district to the common and independent districts of the county on a per capita basis according to the number of scholastic pupils shown by the last preceding official scholastic census, and county line districts shall be eligible to receive such per capita apportionment based upon the number of scholastic pupils residing in the county of such equalization district, as shown by the latest official scholastic census of such district. The County Board of School Trustees shall issue warrants against such Equalization Fund to the school district trustees on a per capita basis of scholastic pupils in each district; provided that the County Board may, from time to time, as the money is collected, issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis of scholastic pupils in the respective districts.

Sec. 8. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess, and collect the maintenance taxes theretofore authorized by the property taxpayers in said respective districts. This law shall not affect the right and duty of said respective school districts to levy, assess, and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess, and collect taxes sufficient to pay principal of and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing, for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 9. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common or inde-

pendent school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the County Board of School Trustees and assessed and collected by the County Tax Assessor and Collector.

Sec. 10. In case any clause, sentence, paragraph, section, or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, or section of this Act. All laws or parts of laws, both general and special, in conflict with this Act are hereby repealed. Acts 1941, 47th Leg., p. 121, ch. 95.

Filed without the Governor's signature, April 2, 1941.

Effective April 14, 1941.

Section 11 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to permit any county containing a population of not less than seven thousand, five hundred (7,500) nor more than seven thousand, five hundred and ninety (7,590) according to the last preceding Federal Census, or any future Federal Census, to adopt by a majority vote of qualified voters of such county a county unit system to the extent provided in this Act; making provisions for the formation of a county-wide school district therein; making provision for holding election in each such county on the question of the adoption of the provisions of this Act; making provision for holding election in each such county to determine whether an equaliza-

tion tax not to exceed twenty (20) cents on the one hundred dollars valuation of property shall be levied and collected annually on all taxable property in the county, such tax to be distributed to the school districts of the county as herein provided; making provision for the assessment and collection of said equalization tax, and prescribing the duties of the County Tax Assessor and Collector and County Superintendent; prescribing the duties of the County Board of School Trustees with respect to such tax and the funds derived therefrom; providing for the making of bond by the Tax Collector; providing that all rights, duties and powers of the several common and independent school districts in any such county shall remain undisturbed and shall not be affected, except as expressly provided in this Act; providing a saving clause; repealing all laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 121, ch. 95.

Art. 2740f—4. County unit system in counties of 10,339 to 10,540; powers and duties of Commissioners' Court

Section 1. This Act is applicable to counties with a population of not less than ten thousand, three hundred and thirty-nine (10,339) and not more than ten thousand, five hundred and forty (10,540), according to the latest Federal Census. Any county coming within the terms of this Act shall have a County Unit System of Education to the extent specified in this Act. For the purpose of levying, assessing, and collecting a school maintenance tax and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a school district, hereinafter described as the county-wide district, the taxing power to be exercised as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article VII, Section 3 of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided. Whenever a petition is presented to the County Judge of any such county, signed by at least one hundred (100) qualified property taxpaying voters residing therein, asking that an election be ordered for the purpose of determining whether or not a maintenance tax shall be levied, assessed, and col-

lected on all taxable property within said county for the maintenance of public schools therein, not exceeding Twenty-five (25) Cents on the one hundred dollars of assessed valuation of taxable property, it shall be the duty of the County Judge, immediately, to order an election to be held within said county to determine said question. Notice of said election shall be given by publishing a copy of the election order in a newspaper of general circulation in said county once each week for at least two (2) weeks, the date of the first publication to be not less than twenty (20) days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election notice within the boundaries of each independent and each common school district, and one copy of said notice shall be posted at the courthouse door. Said notice shall be posted at least twenty (20) days prior to the date fixed for said election. Except as otherwise provided herein, the manner of holding said election shall be controlled by the General Election Laws of the State, and only resident, qualified property taxpaying voters shall be permitted to vote at said election. Said election shall be held at the usual voting places in the several election precincts of such county. Said election returns shall be made and delivered to the County Judge and shall be canvassed by the Commissioners Court of such county at its next regular or special meeting following said election. A majority vote of those voting at said election shall be sufficient to carry said election. The result of said election shall be recorded in the Minutes of the Commissioners Court and certified by the County Clerk and Ex Officio Clerk of the Commissioners Court to the County Superintendent or Ex Officio Superintendent of said county.

Sec. 2. In event said maintenance tax is adopted at such election, after the result of the election has been certified to the County Superintendent, he shall make a permanent record of such certificate and shall send a certified copy of same to the State Department of Education at Austin, Texas, for its information and guidance.

Sec. 3. As soon as the Commissioners Court of such county has determined the total of the assessed value of taxable property according to the values fixed by the Board of Equalization, which values shall be the same as those fixed for State and county taxation purposes, subject thereafter to ordinary corrections, it shall then perform the following duties:

(a) determine the estimated total receipts from the levying and collecting of said Twenty-five (25) Cents tax on the property in the county-wide district according to such valuation;

(b) to determine the estimated amount of money apportionable to each scholastic on the basis of equal per capita distribution according to the then current census of scholastics for the several districts;

(c) to determine the estimated amount of such money available for each common and independent school district according to such per capita distribution;

(d) to cause the ex officio Clerk of such Court to communicate a copy of the order fixing the estimated amount for each independent school district to the president thereof and for each common school district to the County Superintendent or ex officio County Superintendent of such county.

Sec. 4. It shall be the duty of the Commissioners Court at the time other taxes are levied in the county to levy a tax under this law of Twenty-five (25) Cents on the one hundred dollars valuation in said county for that year. Such taxes shall be assessed by the Tax Assessor and collected by the Tax Collector as other taxes are assessed and collected.

The money collected from said Twenty-five (25) Cents tax shall be distributed to the various school districts in such county as follows:

All districts in the county shall receive the same amount of money for each scholastic, for the maintenance of schools in such district. No part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon. The Tax Collector shall, each month, apportion to each district the pro rata part of the taxes collected and dispose of same as hereinafter provided. The valuations fixed by the County Board of Equalization for State and county taxation purposes shall be used in computing said taxes and in levying and collecting the same. The budget officer of each school district in said county as provided by Statute, and the trustees of each of said districts, after receiving the notice of the estimate of the Commissioners Court as herein provided for, and the notice of the State apportionment of public school funds to said district, shall proceed to make and approve the budget for their respective districts as provided by Acts, 1931, Forty-second Legislature, Regular Session, page 339, Chapter 206.¹

Sec. 5. As and when said taxes are collected by the Tax Collector of the county, he shall make monthly settlements with the independent school districts situated in such county, said moneys to be received and held by said independent school districts and protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess, and collect the maintenance taxes theretofore authorized by the property taxpayers in said respective districts, subject to the restrictions that after said county-wide maintenance tax election has been carried and while said tax is in full force and operation, said respective independent school districts and common school districts shall not thereafter levy, assess, and collect any special tax for maintenance of schools, except in instances wherein the apportionment made by the Commissioners Court, together with the apportionment made by the State of Texas, produces an amount inadequate to meet the approved budget of such district, and in that event, such tax shall be levied in an amount to meet such deficit, due allowance to be made for delinquencies and for costs of collection. This law shall not affect the right and duty of said respective school districts to levy, assess, and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess, and collect taxes sufficient to pay principal of and interest on their bonds. Provided however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing, for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 7. Until and unless said county-wide maintenance tax has been authorized at an election held in such county, the duties and powers of the Commissioners Court shall not be considered as having been changed, altered, or enlarged by this Act.

Sec. 8. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective

Boards of Trustees shall continue to administer their lawful duties and powers except as to the levying, assessing, and collecting of maintenance taxes, and the powers and duties as to levying, assessing, and collecting maintenance taxes shall remain unaffected except as modified as provided herein.

Sec. 9. This Act shall be considered as cumulative of other laws applicable to the counties affected, but in event any provision of this law is inconsistent with any other applicable law, the provisions of this Act shall prevail as to the counties affected. All laws and parts of laws in conflict with the provisions of this Act, in so far as they apply to the counties affected, are hereby repealed.

Sec. 10. The Commissioners Court shall have advisory supervision over the schools in the county to the extent that it shall be the duty of the Court to render its advice on all administrative matters submitted by the several Boards of Trustees.

Sec. 11. In event any section, paragraph, sentence, clause, or phrase of this Act shall be held to be unconstitutional, such holding shall not affect the other provisions of the Act not so invalidated. Acts 1941, 47th Leg., p. 400, ch. 233.

¹ Article 688 et seq.; Vernon's Rev.Pen. Code, art. 414b.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 12 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act prescribing additional powers and duties of the Commissioners Court in counties having a population of not less than ten thousand, three hundred and thirty-nine (10,339) and not more than ten thousand, five hundred and forty (10,540), according to the latest Federal Census; making provision for holding an election in each such county to determine whether a maintenance tax shall be levied against all property in such county for the support of public schools therein; prescribing the duties of the County Judge and Commissioners Court in reference to said election; prescribing the duties and powers of the several Boards of District Trustees, in determining the amount of money necessary to maintain the schools of

each school district; prescribing the duties of the Commissioners Court and various county officials in reference to levying, assessing, and collecting such maintenance tax; prescribing certain administrative duties of the Commissioners Court over schools in the county; providing for the distribution of tax moneys collected for the benefit of the several school districts; providing that when the county-wide maintenance tax is in full force and operation no school district within such county shall have authority to levy and collect further maintenance taxes except to the extent provided in this Act, leaving undisturbed the right and power of and requiring said districts to levy and collect taxes for interest and principal of bonds; providing that the duties and powers of school district trustees shall not be affected except as expressly provided in this Act; providing that this Act shall be cumulative of other laws; repealing laws inconsistent herewith; providing that if any part of this law shall be held unconstitutional remaining parts shall be unaffected; and declaring an emergency. Acts 1941, 47th Leg., p. 400, ch. 233.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

1. COMMON SCHOOL DISTRICTS

Art.

- 2742c—1. Separation from municipal control of municipal school district surrounded by county line district to become common school district [New].
- 2744e—3. County-wide districts in counties having \$20,000,000 taxable property and not more than 3 persons per square mile [New].
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- 2790d—4. Refunding warrants of independent districts in counties of 9,200 to 9,250 population [New].
- 2790d—5. Funding warrants in independent districts in counties of 3,750 to 3,850 population [New].
- 2790d—6. Refunding warrants authorized and validated in independent districts in counties over 45,000 having assessed valuation of \$550,000 to \$775,000; tax levy to pay warrants [New].
- 2790d—7. Refunding warrants authorized in independent districts in counties of 1,843 to 1,943 [New].
- 2802e—2. Validating proceedings for bond issues and tax levies for stadia by independent districts [New].
- 2802e—3. Independent districts having indebtedness exceeding 6% of assessed valuation; replacing or repairing condemned buildings; tax [New].
- 2802e—4. Construction and mortgaging of gymnasia, stadia, etc., by independent districts; counties of 21,590 to 21,620; self liquidating; proceedings validated [New].
- 2802f—2. Refunding bonds, issuance by Independent School Districts

Art.

- which have issued delinquent tax notes or certificates under Article 2802f—1; validation of outstanding notes and certificates [New].
- 2802i—10. Maximum tax rate in independent school districts of 5,815 to 5,835 [New].
- 2802i—11. Maximum maintenance and bond tax rate; certain independent school districts within a county and containing ninety square miles or over; validation of proceedings [New].
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- 2802i—13. Maximum tax rate in Independent School Districts, having a scholastic population of 630 to 640, in certain counties [New].
- 2802i—14. Maximum tax rate in independent school districts having scholastic population of 775 to 785 [New].
- 2802i—15. Maximum tax rates in independent districts having city or town of 680 to 690 in counties of 4050 to 4060 [New].
- 2802i—16. Maximum tax rate in independent districts in counties of 10,400 to 10,660 [New].
- 2802i—17. Maximum tax rate in independent districts including city or town of 6425 to 6457 [New].
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6. DISTRICTS IN LARGE COUNTIES

- 2815g—25. Validation of school districts, bonds, tax levies, and acts; exceptions [New].
- 2815g—26. Validating certain county line independent districts [New].
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7. JUNIOR COLLEGES

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- 2815j—1. Appropriations; regulation and allocation; eligibility [New].

1. COMMON SCHOOL DISTRICTS

Art. 2742c—1. Separation from municipal control of municipal school district surrounded by county line district to become common school district

Definitions

Section 1. The term "municipal school district," as used in this Act, shall include any city or town constituting a separate and independent school district under authority of Section 3, Article VII, of the Constitution, as amended, and/or Section 10, of Article XI, of the Constitution, the boundaries of the school corporation being the same as the boundaries of the city or town in which said city has a population of sixteen hundred (1600) or less, according to the last preceding Federal Census.

The term "governing body," as used in this Act, shall include the governing body of each said city or town, whether designated as "city commission," "city council," "board of aldermen," or otherwise.

Procedure

Sec. 2. When any municipal school district, as defined in Section 1 hereof, entirely surrounded by a county line common school district, shall desire to have the public schools within its limits separated from municipal control so that the school corporation shall become and be a common school district, without the dual character theretofore possessed by the school corporation of the city or town, the same shall be done in the following manner:

Whenever as many as one hundred (100) of the resident qualified voters of such municipal school district in city or town petition the board of education or board of school trustees of such municipal district, praying for an election on the proposition as to whether or not the public schools shall be divorced from municipal control, the said board shall certify such petition to the governing body of such city or town. When such petition and the certificate of the board of education or trustees, has been submitted to the governing body of such city or town, it shall thereupon be the duty of such governing body to fix the date, which date shall be not more than ten (10) days from the date such petition and certificate was submitted, for the holding of a joint meeting of the governing body of the city or town and the board of education or trustees of such municipal school district. At such joint meeting, the governing body of the city or town and the board of education or trustees of such municipal school district, acting jointly as one body, the mayor or chairman of the governing body presiding, shall order an election as prayed for in such petition. The election shall be held as nearly as possible in compliance with the law with reference to regular city elections in said city or town. Every person who has attained the age of twenty-one (21) years and who has resided within the limits of the municipal school district and the city or town for six (6) months next preceding the date of the election, and is a qualified elector under the laws of this State, shall be entitled to vote in the election.

Ballots

Sec. 3. All persons voting at such election in favor of such proposition shall have written or printed upon their ballots the words, "For the

separation of the public schools from municipal control, and converting same into a common school district," and all persons voting at such election not in favor of such proposition shall have written or printed upon their ballots the words, "Against the separation of the public schools from municipal control, and converting same into a common school district."

Canvass; results of election

Sec. 4. If a majority of the qualified voters, voting at the election of such municipal school district, shall vote in favor of the separation of the public schools from municipal control and in favor of creating a common school district therefor, the governing body of such city or town shall immediately canvass the returns and certify the result of such election to the board of education or board of trustees of such municipal district, together with a certified copy of the record showing all the proceedings in respect of such election. If such board of education or board of trustees finds that such election has been in all respects lawfully held and the returns thereof duly and legally made to the governing body of such city or town, then it shall by resolution duly passed and entered of record, declare that the public schools of the municipal school district have been separated from municipal control, and that the name of the school district shall thereafter be "_____ Common School District," inserting the name of such city or town. If the proposition shall be defeated at such election, then no election for that purpose shall be ordered until after the expiration of one year after the date of such election.

Bond tax

Sec. 5. Nothing contained in the provisions of this Act shall be construed as abrogating or repealing any district bond tax.

School trustees

Sec. 6. The members of the board of education or the board of trustees of such municipal school district shall continue as members of the board of education or board of trustees of such common school district after separation of municipal control until a special election can be held for choosing their successors, and such successors have been duly elected and qualified; provided that upon the certification of the carrying of such election, as hereinabove provided, the commissioners court of the county pursuant to its duties in connection with common school districts, shall order an election for said common school district for the purpose of naming a board of seven (7) school trustees in whom shall vest the authority for the conduct of the school district as provided by law for common school districts; provided that in all matters said common school district newly created, shall be under the direction of the county commissioners court and the board of trustees as provided by law for common school districts.

Title and rights to property

Sec. 7. The title and rights to all property owned, held, set apart, or in any way dedicated to the use of the public school of the city or town, and/or heretofore vested in such city or town and/or the mayor, chairman of the commission, city council, city commission or board of school trustees of said city or town, prior to separation from municipal control as hereinafter authorized and provided, shall be and are hereby vested in the board of education or board of trustees of such common school district, after separation from a municipal control, and shall be managed and controlled by the board of education or board of trustees thereof, as is now or hereafter provided by law for common school districts.

Obligations and debts

Sec. 8. All bonds issued by and outstanding against any such city or town, as a municipal school district, and all obligations, contracts, and indebtedness existing against said city or town, as a municipal school district, shall become the obligations and debts of the school district at the time of its separation from municipal control, and the said common school district, after separation from municipal control shall be held to have assumed the discharge of all such obligations, contracts and indebtedness, and the same shall be enforceable and collectible from, paid off and discharged by the said common school district, as if originally created by it as a separate common school district; and it shall not be necessary to call an election within and for such district for the purpose of assuming such bonds and other indebtedness.

Annexation or consolidation

Sec. 9. When any such municipal school district shall have been divorced from municipal control, and thereby shall have become a common school district under the provisions of this Act, said newly created common school district may annex and consolidate with a contiguous county line common school district when such annexation and consolidation shall have been approved in separate elections to be held in each of the districts. Such elections shall be held as nearly as practicable according to the provisions for consolidation of school districts as provided by law. If such proposition shall carry in each of the respective districts, then the annexation or consolidation shall be so declared.

Representation on board

Sec. 10. In the event of the annexation or consolidation of a common school district with a contiguous county line common school district, under the provisions of this Act, the common school district so annexed shall have representation on the board of school trustees for the consolidated district of not less than one member, unless and until the two (2) originally consolidated districts shall annex or consolidate three (3) more common school districts; provided that when three (3) more such annexations and consolidations shall have been effected, then the members of the board of school trustees of the entire district shall be elected at large.

Outstanding indebtedness on annexation

Sec. 11. Provided that upon the annexation of a common school district, divorced from municipal control, with a contiguous county line common school district, each of such original districts shall respectively remain exclusively liable for its outstanding bonds and other school indebtedness, unless and until the qualified resident property taxpaying voters of each original district, voting separately, shall vote to assume their proportionate part of the outstanding bonds of each such district. Acts 1941, 47th Leg., p. 1342, ch. 608.

Approved and effective July 9, 1941.

Section 12 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the separation or divorcement of public schools from municipal control in municipal school districts entirely surrounded by a county line common school district, pursuant to an election to be held for that purpose; defining the terms "municipal district" and the

term "governing body" of the city or town; prescribing the method of procedure precedent to calling such election; providing that such election shall be held as nearly as possible in compliance with law with reference to regular city elections, and prescribing qualifications of voters of such election; prescribing form of ballot for such election; prescribing certain duties of the governing body of the city or town and board of education or trustees of the municipal district in respect to declaring the result of such election; providing that

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

If the proposition is defeated, no election for that purpose shall be ordered until after the expiration of one year from date of such election; providing that except as herein defined or limited, such school district, after separation from municipal control, shall have all the powers of common school districts, conferred by law; providing that nothing herein shall be construed as abrogating or repealing any existing bond tax; providing for the election of trustees of such school districts; providing that such school districts shall in all respects be subject to and conducted under laws regulating common school districts; providing that title to all school property shall immediately vest in the board of education or trustees of said common school districts; providing that all

bonds and obligations of any such city or town, as a municipal school district, shall become obligations of debt for the common school district at the time of separation from municipal control, and it shall not be necessary to call an election for the assumption of such debt; providing that such newly created common school district may consolidate with a contiguous district when approved in separate elections and the district so annexed shall have representation on the board of trustees; providing that upon annexation each district shall remain liable on its bonds unless by separate election in each district the tax-paying voters shall vote to assume proportionate parts of the bonds of each district; and declaring an emergency. Acts 1941, 47th Leg., p. 1342, ch. 608.

Art. 2742f. Detaching territory from one school district and attaching to another

Acts 1935, 44th Leg., p. 790, ch. 339, purporting to amend this article, was held invalid. See School Trustees of Orange

County v. District Trustees of Prairie View Common School Dist. No. 3, Sup., 158 S.W.2d 434.

Art. 2744e—3. County-wide districts in counties having \$20,000,000 taxable property and not more than 3 persons per square mile

Counties to which applicable; petition for election; notice; election

Section 1. This Act is applicable to all Counties having an assessed valuation of taxable property according to the last approved tax rolls of not less than Twenty Million (\$20,000,000.00) Dollars and a population according to the latest Federal Census, of not more than three (3) persons per square mile. Any County coming within the terms of this Act shall have a County Unit System of education to the extent specified in this Act. For the purpose of levying, assessing, and collecting a school maintenance tax and for such further administrative functions as are set forth herein, the territory of each of such Counties is hereby created into a School District, hereinafter described as the County-wide District, the taxing power to be exercised as hereinafter provided. There shall be exercised in and for the entire territory of each of such Counties, to the extent in this Act prescribed, the taxing power conferred on School Districts by Article 7, Section 3 of the Constitution but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided. Whenever a petition is presented to the County Judge of any such County, signed by at least one hundred (100) qualified property taxpaying voters residing therein, asking that an election be ordered for the purpose of determining whether or not a maintenance tax shall be levied, assessed and collected on all taxable property within said County for the maintenance of public schools therein, not exceeding Fifteen (15¢) Cents on the One Hundred (\$100.00) Dollars of assessed valuation of taxable property, it shall be the duty of the County Judge immediately to order an election to be held within said County to determine said question. The finding of the County Judge that such petition is sufficient and signed by the number of taxpaying voters required by law shall be conclusive. Notice of said election shall be given by publishing a copy of the election order in a newspaper of general circulation in said County

once a week for at least two (2) weeks, the date of the first publication to be not less than twenty (20) days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election within the boundaries of each Independent and each Common School District, and one copy of said notice shall be posted at the courthouse door. Said notice shall be posted at least twenty (20) days prior to the date fixed for said election. Except as otherwise provided, herein, the manner of holding said election shall be controlled by the general election laws of the State, and only qualified electors who own taxable property in such County and who have duly rendered the same for taxation shall be qualified to vote at said election, and all electors shall vote in the election precincts of their residence. Said election shall be held at the usual voting places in the several election precincts of such County. Such election returns shall be made and delivered to the County Judge and shall be canvassed by the Commissioners' Court of such County at its next regular or special meeting following said election. A majority vote of those voting at said election shall be sufficient to carry said election. The result of said election shall be recorded in the minutes of the Commissioners' Court and certified by the County Clerk and Ex-Officio Clerk of the Commissioners' Court to the County Superintendent or Ex-Officio Superintendent of said County.

Record of certificate

Sec. 2. In event the said maintenance tax is authorized at such election, after the result of the election has been certified to the County Superintendent, he shall make a permanent record of such certificate and shall send a certified copy of same to the State Department of Education at Austin, Texas, for its information and guidance.

Duties of Commissioners' Court

Sec. 3. As soon as the Commissioners' Court of such County has determined the total of the assessed value of taxable property according to the values fixed by the Board of Equalization, which values shall be the same as those fixed for State and County taxation purposes, subject thereafter to ordinary corrections, it shall then perform the following duties: (a) determine the estimated total receipts from the levying and collecting of said Fifteen (15¢) Cents tax on the property in the County-wide District according to such valuation; (b) to determine the estimated amount of money apportionable to each scholastic on the basis of equal per capita distribution according to the then current census of scholastics for the several Districts; (c) to determine the estimated amount of such money available for each Common and Independent School District according to such per capita distribution, with the special provision that no District shall receive less than Seven Hundred Fifty (\$750.00) Dollars of such money and that the provision for equal per capita distribution shall yield to this special provision; (d) to cause the Ex-Officio Clerk of such Court to transmit a copy of the order fixing the estimated amount for each Independent School District to the president thereof and for each Common School District to the County Superintendent or Ex-Officio County Superintendent of such County.

Levy, assessment, collection and distribution of taxes

Sec. 4. It shall be the duty of the Commissioners' Court, at the time other taxes are levied in the County, to levy a tax under this law of not to exceed Fifteen (15¢) Cents on the One Hundred (\$100.00) Dollars valuation in said County for that year. Such taxes shall be assessed by the Tax Assessor and collected by the Tax Collector as other taxes are

assessed and collected. The money collected from said tax, shall be distributed to the various School Districts in such County as follows:

All Districts in the County shall receive the same amount of money for each scholastic, with the exception that no District shall receive less than Seven Hundred Fifty (\$750.00) Dollars, which shall be used for the maintenance of schools in such District. If any portion of said Seven Hundred Fifty (\$750.00) Dollars is not used for any year, the balance shall be retained in the treasury and used for the said District for the next year, such balance to be deducted the following year from the Seven Hundred Fifty (\$750.00) Dollars to be apportioned to such District. No part of the moneys realized from said County-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon. The Tax Collector shall each month apportion to each District the pro rata part of the taxes collected and dispose of same as hereinafter provided. The valuations fixed by the County Board of Equalization for State and County taxation purposes shall be used in computing said taxes and in levying and collecting the same. The budget officer of each School District in said County as provided by statute, and the Trustees of each of said Districts, after receiving the notice of the State apportionment of public school funds to said District, shall proceed to make and approve the budget for their respective Districts as provided by Acts 1931, 42nd Legislature, Regular Session, page 339, Chapter 206.¹

Monthly settlements

Sec. 5. As and when said taxes are collected by the Tax Collector of the County, he shall make monthly settlements with the Independent School Districts situated in such County, said moneys to be received and held by said Independent School Districts and protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the Common School Districts in such County such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Authority of districts respecting taxes

Sec. 6. The several Independent School Districts and Common School Districts in such County shall continue to have authority to levy, assess and collect the maintenance taxes theretofore authorized by the property tax payers in said respective Districts, subject to the restrictions that after said County-wide maintenance tax election has been carried and while said tax is in full force and operation, said respective Independent School Districts and Common School Districts shall not thereafter levy, assess and collect any special tax for maintenance of schools, except in instances wherein the apportionment made by the Commissioners' Court, together with the apportionment made by the State of Texas, produces an amount inadequate to meet the approved budget of such District, and in that event, such tax shall be levied in an amount to meet such deficit, due allowance to be made for delinquencies and for costs of collection. This law shall not affect the right and duty of said respective School Districts to levy, assess and collect taxes within their respective School Districts for the payment of principal and interest on bonded indebtedness of such Districts. The respective District shall continue to levy, assess and collect taxes sufficient to pay principal of, and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Powers of Commissioners' Court

Sec. 7. Until and unless said County-wide maintenance tax has been authorized at an election held in such County, the duties and powers of the Commissioners' Court shall not be considered as having been changed, altered or enlarged by this Act.

Board of trustees, duties and powers

Sec. 8. This Act shall not have the effect of changing any duties imposed on or powers conferred on the Trustees of School Districts situated in the Counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Board of Trustees shall continue to administer their lawful duties and powers except as to the levying, assessing and collecting of maintenance taxes, and the powers and duties as to levying, assessing and collecting maintenance taxes shall remain unaffected except as modified as provided herein.

Law as cumulative; conflicting provisions; repeal

Sec. 9. This Act shall be considered as cumulative of other laws applicable to the Counties affected, but in event any provision of this law is inconsistent with any other applicable law, the provisions of this Act shall prevail as to the Counties affected. All laws and parts of laws in conflict with the provisions of this Act, insofar as they apply to the Counties affected, are hereby repealed. Specifically, Chapter 7, Acts of the 43rd Legislature, First Called Session,² Chapter 54, Acts of the 45th Legislature³ are hereby repealed, provided, however, that such repeal shall not affect taxes heretofore levied under said laws.

Commissioners' court, advisory supervision

Sec. 10. The Commissioners' Court shall have advisory supervision over the schools in the County to the extent that it shall be the duty of the court to render its advice on all administrative matters submitted by the several Boards of Trustees.

Commissioners' court, power to levy

Sec. 11. In the event the County-wide maintenance tax is adopted in any County affected by this Act, the Commissioners' Court shall thereafter have the power to levy such tax for each year until and including taxes for the year 1950 which, under present laws, will be due October 1, 1950, and delinquent after January 31, 1951. Powers acquired under this Act shall remain effective until all taxes levied during such period of time shall have been collected; but no further County-wide maintenance tax shall be levied thereafter.

Validation of actions and elections

Sec. 12. All actions heretofore taken by the Commissioners' Court, the County officials, or the officials of School Districts located in any such County, or in behalf of any such County affected by this Act and all elections heretofore held in any such County for any purposes which are authorized by this Act, and all County-wide school taxes heretofore levied in any such County are hereby expressly validated and ratified. Acts 1941, 47th Leg., p. 218, ch. 150.

¹ Articles 688-689a-20; P.C. article 414b.

² Article 2740f.

³ Articles 2740f, §§ 1, 11; 2740f-1.

Approved and effective April 18, 1941.

Section 13 of the Act of 1941 declared an emergency and provided that the Act

should take effect immediately from and after its passage.

Title of Act:

An Act authorizing Counties having an assessed valuation of not less than Twenty Million (\$20,000,000.00) Dollars and a population of not more than three (3) persons per square mile to vote, levy, assess and collect a County-wide school maintenance tax; providing for the apportionment and administration thereof; making other provisions related to such subject; repealing all laws in conflict herewith to the extent

of such conflict; specifically repealing Chapter 7, 43rd Legislature, First Called Session and Chapter 54, 45th Legislature, with the provision that such repeal shall not affect taxes heretofore levied thereunder; validating all acts done, elections held, for any purpose which are authorized by this Act, and validating taxes levied in such Counties; and declaring an emergency. Acts 1941, 47th Leg., p. 218, ch. 150.

Art. 2746. 2819-20 Conduct of election

Said trustees shall appoint three (3) persons, qualified voters of the district, who shall hold such election and make returns thereof to said trustees within five (5) days after such election, and said persons shall receive as compensation for their services the sum of One Dollar (\$1) each, to be paid out of the local funds of the school district where the election was held. The Board of Trustees, when ordering such election and appointing persons to hold election, shall give notice of the time and place where such election will be held, which notice shall be posted at three (3) public places within the district at least twenty (20) days prior to the date of holding said election. If, at the time and place for holding such election, any or all of the persons so appointed to hold such election are absent or refuse to act, then the electors present may select of their number a person or persons to act in the place of those absent or refusing to act. Said Board of Trustees shall meet and canvass the returns of said election within five (5) days after returns have been made and declare the result of said election and issue to the persons so elected their commissions as such trustees, and shall notify the County Judge or the County Superintendent if the county has a Superintendent. As amended, Acts 1941, 47th Leg., p. 1373, ch. 623, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 2749. 2823-4 Control of schools

Teachers' contracts for not exceeding 2 years in common school or consolidated common school districts, see articles 2750a, 2750a—1.

Art. 2750a. Contracts with principals, superintendents, and teachers; term; approval by County Superintendent

See article 2750a—1.

Art. 2750a—1. Contracts with principals, superintendents, and teachers; term; approval by County Superintendent

That trustees of any Common School District or Consolidated Common School District shall have authority to make contracts for a period of time not in excess of two (2) years with principals, superintendents, and teachers of said Common School Districts or Consolidated Common School Districts, provided that such contracts shall be approved by the County Superintendent. No contract may be signed by the Trustees of Common School Districts or Common Consolidated School Districts until the newly elected trustee or trustees have qualified and taken the oath of office. Acts 1941, 47th Leg., p. 259, ch. 175, § 1.

Approved and effective April 24, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

See, also, article 2750a.

Title of Act:

An Act authorizing trustees of Common School Districts and Consolidated Common School Districts to make contracts with superintendents, principals, and teachers, with the approval of the County Su-

perintendent; providing for the length of time of such employment; providing that no contract may be signed until the newly elected Trustees have qualified and taken the oath of office, and declaring an emergency. Acts 1941, 47th Leg., p. 259, ch. 175.

2. INDEPENDENT DISTRICTS IN TOWNS

Art. 2763. 2856 Small districts: laws applicable

Certain independent school districts exempt, see article 2767g.

Art. 2767g. Certain independent districts excepted from law as to creation and abolition of districts

Independent school districts created under the provisions of Chapter 5, Acts 1930, 41st Legislature, Fifth Called Session,¹ and which comprise an entire county, such county having a population of not more than seven hundred fifty (750) according to the last preceding Federal Census, and having a scholastic population of not more than one hundred (100) according to the last scholastic census as contained in the Public School Directory of the State Department of Education, shall not be subject to the provisions of Article 2763 of the Revised Civil Statutes of Texas, 1925, but are hereby declared exempt therefrom. As amended Acts 1941, 47th Leg., p. 221, ch. 151, § 1.

¹ Article 2742j.

Filed without the Governor's signature April 22, 1941.

Effective May 2, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

3. INDEPENDENT DISTRICTS IN CITIES

Art. 2770. 2870 Shall receive pro rata of school funds

Supplemental scholastic census where population increases from camps, reservations or building projects as affecting apportionment, see article 2816a.

Art. 2773a. Independent school districts may sell, exchange or convey minerals; oil and gas leases; validation of sales or leases of minerals

Section 1. Any independent school district, when in the opinion of a majority of its trustees it is necessary or advisable to sell, exchange, or convey the minerals, or any part thereof, belonging to said district, upon the order of said trustees, with the consent of the State Superintendent of Public Instruction, may execute an oil and/or gas lease, or sell, exchange, and convey the minerals, or any part thereof, to any person, upon such terms as such trustees may deem advantageous to said district, and which the State Superintendent of Public Instruction may approve, and apply any proceeds to the sinking fund account of such district, if there be outstanding bonds therein, otherwise to the purchase of necessary grounds or to the building or repairing of schoolhouses, or to the credit of the local maintenance school fund of the district, and in such case said district, acting by its president, shall execute its deed or lease to the purchaser of the same, reciting the approval of the State Superintendent of Public Instruction and the resolution of the Board of Trustees authorizing the sale.

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

Sec. 2. Any and all sales or leases of minerals heretofore made by any independent school districts in substantial compliance with the provisions of this Act and when such sales or leases have been made with the consent of the State Board of Education or the State Superintendent of Public Instruction after same have been authorized by the trustees of the independent school district, shall not be invalid by reason of any lack of authority to make and enter into such sales and leases. Acts 1941, 47th Leg., p. 600, ch. 368.

Approved and effective May 22, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing independent school districts, upon the order of their trustees, with the consent of the State Superintendent of Public Instruction, to execute an oil and/or gas lease, or sell, exchange, and convey the minerals, or any part thereof, belonging to said school district,

and to apply any proceeds to the sinking fund account of such district, if there be outstanding bonds therein, otherwise to the purchase of necessary ground or to the building or repairing of schoolhouses, or to the credit of the local maintenance school fund of the district; and all sales or leases of minerals theretofore made by any district in substantial compliance with the provisions hereof shall not be invalid by reason of any lack of authority to make and enter into such sales and leases; and declaring an emergency. Acts 1941, 47th Leg., p. 600, ch. 368.

[Art. 2774a. Appointment or election and terms of school trustees in certain districts]

Independent districts in cities of 1725-1730 population and having 602-607 scholastics

Acts 1941, 47th Leg., p. 130, ch. 102, read as follows: "Section 1. In all Independent School Districts, whether created under the General Laws or by Special Act of the Legislature, having as many as six hundred two (602) and not more than six hundred seven (607) scholastics according to the 1940 official scholastic census, and wherein there may be situated a City having a population of as many as one thousand seven hundred twenty-five (1725) and not more than one thousand seven hundred thirty (1730) according to the last preceding Federal Census, and having a board of seven (7) trustees, the term of office of the board of school trustees shall be three (3) years.

"Sec. 2. All candidates for school trustee in any such Independent School District, notwithstanding any contrary or inconsistent provisions in any other General or Special Law, shall be voted upon and elected separately for positions on said board of trustees, and all candidates shall be designated on the official ballots according to the number of such position to which they seek election. Such official ballot shall have printed on it the following: 'Official Ballot for the Purpose of Electing Trustees,' giving the name of the School District together with the designating number of each position to be filled, with the list of candidates under the position to which they respectively seek election.

"Sec. 3. Within ten (10) days from the date this Act shall become effective, the trustees of any such Independent School District shall determine by lot which posi-

tions they shall hold on said board of trustees as follows: those whose terms of office expire during the year 1941, or who shall have been elected during the year 1941 if this Act shall not become effective until after April 5, 1941, shall draw for positions Numbers 1, 2 and 3; those whose terms of office expire during the year 1942 shall draw for positions Numbers 4 and 5; those whose terms of office expire during the year 1943 shall draw for positions Numbers 6 and 7, and thereafter (a) if this Act shall become effective on or before April 5, 1941, positions Numbers 1, 2 and 3 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1941; (b) without regard to the effective date of this Act, positions Numbers 4 and 5 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1942; (c) without regard to the effective date of this Act, positions Numbers 6 and 7 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1943, and thereafter, on the first Saturday of April of each calendar year, either two (2) or three (3) trustees, as the case may be, shall be elected in like manner to positions on such board of trustees. (d) If this Act shall not become effective on or before April 5, 1941, positions Numbers 1, 2 and 3 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1944, and thereafter on the first Saturday of April of each calendar year, either two (2) or three (3) trustees, as the case may be, shall be elected in like manner.

"Sec. 4. Any person desiring election for a position on any such board of trus-

tees shall, not less than ten (10) days prior to the date of said election, file with the board of trustees ordering such election, written notice announcing his or her candidacy, designating in such written notice and request to have his or her name placed on the official ballot the number of the position on such board of trustees for which he or she as the case may be desires to become a candidate and all candidates so requesting shall have their names printed on the official ballot beneath the number of the position so designated. No person who does not so file said notice and request within the time aforesaid shall be entitled to have his or her name printed upon said official ballot to be used at any such election. No candidate shall be eligible to have his or her name placed on the official ballot under more than one (1) position to be filled at any such election.

"Sec. 5. In any such election each voter shall vote for only one candidate for each such position. The candidate receiving the highest number of votes for each respective position voted upon at any such election shall be entitled to serve as a trustee on said board, holding the position thereon to which he or she as the case may be shall have been so elected.

"Sec. 6. Notice of all elections for trustees in any such Independent School District included within the terms of this Act heretofore created by Special Act of the Legislature shall be given in the manner and for the time required by such Special Acts and such elections in any such Districts shall be held in the manner and in conformity with such Special Acts so creating such School Districts, except where any such Special Act may be in conflict herewith, in which event this Act shall control; and, likewise, notice of all elections for trustees in any Independent School District included within the terms of this Act heretofore created under the General Laws shall be given in the manner and for the time required by the General Laws relating to such subject and such elections in any such Districts shall be held in the manner and in conformity with such General Laws except where any such General Laws may be in conflict herewith, in which event this Act shall control.

"Sec. 7. All laws and parts of laws, both General and Special, insofar only as they may be in conflict herewith, are hereby repealed."

Filed without the Governor's signature,
April 7, 1941.

Effective April 16, 1941.

Art. 2777e. Terms of trustees in districts having 70,000 or more scholastics and containing city of 375,000 or more; elections

Section 1. In all Independent School Districts, whether created under the General Laws or by Special Act of the Legislature, having seventy thousand (70,000) or more scholastics according to the last official scholastic census and wherein there may be situated a City having a population of three hundred seventy-five thousand (375,000) or more according to the last preceding Federal Census and having a board of seven (7) Trustees, the term of office of the Board of School Trustees shall be six (6) years.

Sec. 2. All candidates for School Trustee in any such Independent School District, notwithstanding any contrary or inconsistent provisions in any other General or Special Law, shall be voted upon and elected separately for positions on said Board of Trustees and all candidates shall be designated on the official ballots according to the number of such position to which they seek election. Such official ballot shall have printed on it the following: "Official Ballot for the Purpose of Electing Trustees," giving the name of the School District together with the designating number of each position to be filled, with the list of candidates under the position to which they respectively seek election.

Sec. 3. Within ten (10) days from the date this Act shall become effective, the Trustees of any such Independent School District shall determine by lot which positions they shall hold on said Board of Trustees as follows: those whose terms of office expire during the year 1941, or who shall have been elected during the year 1941 if this Act shall not become effective until after March 1, 1941, shall draw for Positions Numbers 1 and 2; those whose terms of office expire during the year 1943 shall draw for Positions Numbers 3 and 4; those whose terms of office expire during the year 1945 shall draw for Positions Numbers 5, 6

and 7, and thereafter (a) if this Act shall become effective on or before March 1, 1941, Positions Numbers 1 and 2 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1941; (b) without regard to the effective date of this Act, Positions Numbers 3 and 4 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1943; (c) without regard to the effective date of this Act, Positions Numbers 5, 6 and 7 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1945, and thereafter, on the first Saturday of April of each odd numbered calendar year either two (2) or three (3) Trustees, as the case may be, shall be elected in like manner to positions on such Board of Trustees. (d) If this Act shall not become effective on or before March 1, 1941, Positions Numbers 1 and 2 shall be open for candidates to be elected at an election to be held on the first Saturday in April, 1947, and thereafter on the first Saturday of April of each odd numbered calendar year either two (2) or three (3) Trustees as the case may be shall be elected in like manner.

Sec. 4. Any person desiring election for a position on any such Board of Trustees shall, not less than ten (10) days prior to the date of said election, file with the Board of Trustees ordering such election written notice announcing his or her candidacy, designating in such written notice and request to have his or her name placed on the official ballot the number of the position on such Board of Trustees for which he or she as the case may be desires to become a candidate and all candidates so requesting shall have their names printed on the official ballot beneath the number of the position so designated. No person who does not so file said notice and request within the time aforesaid shall be entitled to have his or her name printed upon said official ballot to be used at any such election. No candidate shall be eligible to have his or her name placed on the official ballot under more than one position to be filled at any such election.

Sec. 5. In any such election each voter shall vote for only one candidate for each such position. The candidate receiving the highest number of votes for each respective position voted upon at any such election shall be entitled to serve as a Trustee on said board, holding the position thereon to which he or she as the case may be shall have been so elected.

Sec. 6. Notice of all elections for Trustees in any such Independent School District included within the terms of this Act heretofore created by Special Act of the Legislature shall be given in the manner and for the time required by such Special Acts and such elections in any such Districts shall be held in the manner and in conformity with such Special Acts so creating such School Districts, except where any such Special Act may be in conflict herewith, in which event this Act shall control; and, likewise, notice of all elections for Trustees in any Independent School District included within the terms of this Act heretofore created under the General Laws shall be given in the manner and in conformity with such General Laws except where any such General Laws may be in conflict herewith, in which event this Act shall control.

Sec. 7. All laws and parts of laws, both General and Special, insofar only as they may be in conflict herewith, are hereby repealed. Acts 1941, 47th Leg., p. 29, ch. 17.

Approved and effective Feb. 24, 1941.

Section 8 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the term of office of School Trustees of Independent School Districts, whether created under General Law or by Special Act of the Legislature, having sev-

enty thousand (70,000) or more scholastics according to the last official scholastic census and wherein there may be situated a City having a population of three hundred seventy-five thousand (375,000) or more according to the last preceding Federal Census, and having a board of seven (7) Trustees; providing that in all such School Districts Trustees shall be voted upon and elected separately for positions on said Board of Trustees and prescribing a method whereby Trustees in any such School District within ten (10) days from the effective date of this Act shall draw for positions on any such Board of Trustees in any such School District; providing the manner and method of electing Trustees thereafter in any such District and for an official ballot for use in such Trustee elections and the time within which and the manner in which a person desiring to become a candidate for election shall give notice of his or her candidacy as the case

may be; further providing that in any such election no candidate shall be eligible to have his or her name placed on the official ballot for more than one position to be filled at any such election; further providing that at any such election each voter shall vote for only one candidate for each such position and that the candidate receiving the highest number of votes for each respective position voted upon at any such election shall be entitled to serve as Trustee on said Board, holding the position thereon to which he or she as the case may be shall have been so elected; providing for the manner and method of giving notice of elections for Trustees in all Independent School Districts included within the terms of this Act; further providing that all laws and parts of laws, both General and Special insofar only as they may be in conflict herewith are repealed; and declaring an emergency. Acts 1941, 47th Leg., p. 29, ch. 17.

Art. 2779a. Election of tax assessors and collectors in independent school districts in counties of 19,220 to 19,240 and 51,325 to 54,200

Upon receipt of a petition signed by twenty-five (25) per cent of the qualified voters in any Independent School District in counties having a population of no less than nineteen thousand, two hundred and twenty (19,220) and no more than nineteen thousand, two hundred and forty (19,240), and in counties having a population of no less than fifty-one thousand, three hundred and twenty-five (51,325) and no more than fifty-four thousand and two hundred (54,200), according to the last Federal Census, the Board of Trustees of such Independent School District shall provide for the election of a Tax Assessor and Collector to be held at the next regular election of Trustees of such Independent School Districts, and provided that such petition must be filed with the Board of Trustees at least sixty (60) days before the date of such election. The term of office of an elected Tax Assessor and Collector shall be for two (2) years from the date of election. It is also provided that the Board of Trustees shall appoint a Tax Assessor and Collector upon receipt of a petition signed by twenty-five (25) per cent of the qualified voters in such Independent School District, but provided that if petitions requesting both election and appointment are filed at the same time, the petition which is signed by the largest number of qualified voters shall prevail, and the Board of Trustees shall follow the mode of selection of a Tax Assessor and Collector requested by such petition. Added Acts 1941, 47th Leg., p. 439, ch. 272, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 22, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2781. [2895] Teachers' contracts

Teachers' contracts for not exceeding 2 years in common school or consolidated common school districts, see article 2750a—1.

Art. 2783. 2894 Additional courses

Spanish, teaching of, see article 2911a.

4. TAXES AND BONDS

Art. 2789. [2864] Refunding bonds

Independent School Districts which have issued delinquent tax notes or certificates, issuance of refunding bonds by, see article 2802f—2.

Art. 2789a. Independent School Districts, voting refunding bonds to buy up outstanding bonds

Section 1. School Trustees of Independent School Districts shall be authorized to order an election for the purpose of voting refunding bonds, the proceeds of which are to be used for the purpose of buying in previously issued bonds which bear no provision for the option of prior redemption, and subject to the provisions hereinbelow set forth; and provided further that said election shall be held in the manner now prescribed by law for the voting of bonds in Independent School Districts, except as herein otherwise provided.

Sec. 2. Before ordering an election for the voting of refunding bonds for the purposes hereinabove described, the Trustees of said Independent School Districts shall secure from the holders or owners of said outstanding bonds an option to purchase at a stipulated price; and in no case shall the agreed purchase price involve the payment of a premium in excess of thirteen (13%) per cent of par value.

Sec. 3. After having secured such option on the above described bonds, said Trustees may order an election, for the purpose of submitting to the qualified property taxpaying voters the proposition for the issuance of such refunding bonds, notice of which shall be given by posting in three (3) or more public places within the District, which notice shall be posted not less than fourteen (14) days prior to the date set for said election; and provided further that said notice shall fully inform the voters as to the bonds which it is proposed to buy in, the stipulated price as stated in the option, the estimated interest rate of the proposed refunding bonds, and the estimated savings to be effected thereby. Provided further, that like notice shall be given by publication in a newspaper published in such District, or if there is no newspaper in said District, then in a newspaper in the County where said election is to be held, for two (2) consecutive weeks prior to the date fixed for said election, and the date of the first publication of said notice shall be not less than fourteen (14) days prior to the date fixed for said election.

Sec. 4. Under no circumstances shall Trustees of any School District be authorized to order such an election or to issue such refunding bonds unless it is shown mathematically that a saving will result in total interest and principal to be paid. Such refunding bonds must be approved by the Attorney General. Acts 1941, 47th Leg., p. 223, ch. 153.

Approved and effective April 18, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Trustees of Independent School Districts to order an election to vote refunding bonds for the purpose of buying in bonds which have been previously issued without option of prior redemption and prescribing the method of holding such election; providing that as a prerequisite to ordering such election said Trustees shall first obtain an

option to purchase said outstanding bonds from the owners, at a stipulated price; providing that in no case shall the price paid for such bonds exceed thirteen (13%) per cent above par value; providing that the qualified voters be fully informed through notices and publications as herein provided; providing that it must appear that such refunding will result in a money saving to the School District; providing that it must be proven mathematically that a saving will result in total interest and principal paid, and have the approval of the Attorney General; and declaring an emergency. Acts 1941, 47th Leg., p. 223, ch. 153.

Art. 2789b. Refunding bonds when two or more school entities have become obligated to pay

Whenever two or more school entities, including in that term common school districts, independent school districts, and cities which have assumed control of their schools or which constitute independent school districts, may have become obligated to pay a bond issue or issues, whether each is obligated to pay the whole or separate parts thereof, and which obligations arise on account of a change or changes in the boundaries of a school entity or division of such entity, or any other set of circumstances which have resulted in the bonds of a district having become wholly or in part the obligation or obligations of the original entity and some other entity or entities, or having become the obligation of two or more new entities, and the entities owing the same desire to issue refunding bonds, the said entities then owing such bonds shall have the right and authority through their governing boards without the necessity of any election to issue refunding bonds, which shall be done by joint action of their governing bodies. The refunding bonds so issued shall be the joint obligation of each such entity to the extent that each was liable prior to such refunding, in which event it shall be so provided in said refunding bonds. Such entities may enter into contracts between themselves, setting forth and determining their respective obligations as between themselves on such refunding bonds without impairing the rights of the holders of such refunding bonds; or each of said entities may separately issue refunding bonds for an amount sufficient to pay that part of the original bonds which it is its obligation to pay. Any such bonds may be issued to mature in serial and annual installments not exceeding thirty (30) years from the date of issue and may be made optional on any interest-paying date as the governing board may direct; and maturing interest coupons may also be so refunded. Acts 1941, 47th Leg., p. 362, ch. 201, § 1.

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for issuing refunding bonds where the original bonds are now

owned by two or more school entities, including common school districts, independent school districts, and cities which have assumed control of their schools or which constitute independent school districts; making refunding bonds joint obligation; providing for contract between entities setting forth respective obligations; providing for refunding of maturing interest coupons; and declaring an emergency. Acts 1941, 47th Leg., p. 362, ch. 201.

Art. 2790. Independent district tax

Pledge of anticipated revenues in independent districts having not less than 500 scholastics in counties of 4,521 to 4,532

Acts 1941, 47th Leg., p. 260, ch. 176, read as follows: "Section 1. That from and after the passage of this Act, the Board of Trustees in any independent school district with a scholastic population of not less than five hundred (500) and located in any county in this State having a population of not less than four thousand five hundred twenty-one (4,521) and not more than four thousand five hundred thirty-two (4,532), according to the last preceding Federal Census, shall have authority and full power to pledge funds not to exceed Ten Thousand (\$10,000.00) Dollars in

any year for a period not to exceed three (3) years, payable out of the anticipated revenues of local funds which would not be needed for maintenance, operation or repairs, for the purpose of making permanent improvements for school purposes.

"Sec. 2. That for the purposes of this Act, the district may pay or renew any current loans by new loans against the anticipated revenues of the succeeding year, but nothing in this Act shall prevent the district from pledging its current revenue or impair any lien so created.

"Sec. 3. The provisions of this Act shall be cumulative of all other laws, General or Special, and shall not be interpreted as repealing any existing powers in such school districts; but in the event that any

of the provisions of this Act are in conflict with the provisions of any other law, General or Special, the provisions hereof shall take precedence and shall prevail to the extent of such conflict.

"Sec. 4. If any provision or section of this Act is held unconstitutional or invalid,

the same shall not operate to defeat the whole Act, but all other parts shall stand and remain in full force and effect."

Filed without the Governor's signature, April 26, 1941.

Effective May 7, 1941.

Art. 2790d—4. Refunding warrants of independent districts in counties of 9,200 to 9,250 population

Section 1. As to all counties having a population of not less than nine thousand, two hundred (9,200) inhabitants nor more than nine thousand, two hundred and fifty (9,250) inhabitants, according to the last preceding Federal Census, it shall be lawful for independent school districts located therein to create and issue, upon the faith and credit of said districts, time warrants for the purpose of taking up, refunding, and extending indebtedness heretofore legally incurred for the local maintenance of schools in said districts.

Sec. 2. Such time warrants shall be payable within ten (10) years from August 31, 1940, and shall bear interest not to exceed six (6) per cent per annum, and the boards of trustees of said independent school districts shall levy a sufficient tax within legal limitations to pay the interest on said obligations and to create a sinking fund to discharge them at maturity. The powers herein granted shall be exercised by the boards of trustees of said districts without the necessity of a vote by the people. Acts 1941, 47th Leg., p. 415, ch. 245.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize all independent school districts in certain counties to pay present outstanding legal indebtedness of the said school districts by refunding warrants to bear interest of not more than six (6) per cent per annum and to be payable out of a portion of the local maintenance taxes; and declaring an emergency. Acts 1941, 47th Leg., p. 415, ch. 245.

Art. 2790d—5. Funding warrants in independent districts in counties of 3,750 to 3,850 population

Section 1. This Act shall apply to independent school districts in counties having a population of not less than three thousand, seven hundred and fifty (3,750) and not more than three thousand, eight hundred and fifty (3,850) according to the last preceding Federal Census. Independent school districts in said counties are hereby authorized to fund into time warrants any legal outstanding obligations of said districts whether evidenced by scrip, warrants, contracts, or any other instrument, which said obligations existed and were outstanding on the 1st day of July, 1940. Such time warrants shall be payable within five (5) years from the effective date of this Act and shall bear interest at not more than five (5) per cent per annum, and the Board of Trustees of said independent school districts shall levy a sufficient tax and within legal limitations to pay the interest on said obligations, and to create a sinking fund sufficient to discharge them at maturity.

Sec. 2. Such school districts are hereby authorized to borrow the sum of not more than Seven Thousand Dollars (\$7,000) for the purpose of paying such outstanding obligations that were necessary expenses of said independent districts for the school years 1938-39 and 1939-40, and to issue time warrants within the limitations and upon the conditions prescribed in Section 1 hereof to evidence the indebtedness so incurred.

The powers herein granted shall be exercised by the Boards of Trustees of said districts without the necessity of a vote by the people. Acts 1941, 47th Leg., p. 403, ch. 234.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act applying only to independent school districts in counties having a population of not less than three thousand, seven hundred and fifty (3,750) and not more than three thousand, eight hundred and fifty (3,850) according to the last preceding Federal Census; authorizing said

school districts to fund into time warrants all outstanding obligations of said school districts which existed on July 1, 1940; prescribing the terms and conditions of issuance of said time warrants; authorizing said school districts to borrow money in a sum not to exceed Seven Thousand Dollars (\$7,000) with which to pay certain outstanding obligations; providing for the levying of a tax to pay the same and fixing the rate of interest thereon; prescribing the terms and conditions of said time warrants; and declaring an emergency. Acts 1941, 47th Leg., p. 403, ch. 234.

Art. 2790d—6. Refunding warrants authorized and validated in independent districts in counties over 45,000 having assessed valuation of \$550,000 to \$775,000; tax levy to pay warrants

Section 1. The Board of Trustees of any independent school district located in any county having a population of more than forty-five thousand (45,000) inhabitants according to the last preceding Federal Census, and which independent school district has an assessed valuation of not more than Seven Hundred and Seventy-five Thousand Dollars (\$775,000) and not less than Five Hundred and Fifty Thousand Dollars (\$550,000), shall have the power to issue refunding warrants in lieu of an extension of eligible vouchers, proceeds of such refunding warrants to be used exclusively for the payment of salaries of employees of said school district; providing that only such vouchers shall be eligible for refunding as meet the following conditions: They must have been originally authorized by the Board of Trustees for salaries, and shall have been signed by the proper officials of the district and delivered for value to the original payee; provided that such vouchers as may have been discounted by the original payee shall be redeemable by noninterest-bearing refunding warrants only.

Sec. 2. The Board of Trustees of any such independent school district as herein described shall have authority to pass all orders necessary and convenient to effect the surrender of such vouchers for cancellation and to deliver refunding warrants in lieu thereof to the holders of said vouchers. Said refunding warrants shall bear interest at a rate not exceeding three (3) per cent per annum, to be numbered serially, and shall be payable serially at such time and in such amount as may be determined by the Board, provided that the maximum date of maturity shall be not more than ten (10) years after the date of said refunding warrants. The Board of Trustees shall have authority to reserve the right to retire said warrants before their maturity date upon the giving of proper notice to the holders, the method of which notice shall be prescribed in the order authorizing said warrants; provided that the total amount of refunding warrants outstanding at any one time shall never exceed the sum of Five Thousand Dollars (\$5,000).

Sec. 3. The actions of the Board of Trustees in authorizing, issuing, and delivering said original vouchers are hereby expressly authorized and validated and such vouchers and accrued interest thereon are in all things validated, and said refunding warrants issued in lieu thereof shall be binding and enforceable obligations of said district.

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

Sec. 4. It shall be the duty of the Board of Trustees of any such district as herein described issuing said refunding warrants to levy a continuing tax within the total rate theretofore voted by the district, for maintenance and other purposes, sufficient to pay the principal and interest on said refunding warrants as said interest and principal matures, and to have said tax assessed and collected. It shall be the duty of the Board of Trustees to take into consideration the tax necessary for said purposes from year to year in fixing the annual tax levied for maintenance and other purposes and to include within said general tax levy an amount sufficient to pay the principal and interest of said refunding warrants. Acts 1941, 47th Leg., p. 522, ch. 319.

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Boards of Trustees in all independent school districts located in any county having a population of more than forty-five thousand (45,000) inhabitants and which independent school district has an assessed valuation of not more than Seven Hundred and Seventy-five Thousand Dollars (\$775,000) and not less than Five

Hundred and Fifty Thousand Dollars (\$550,000), to issue refunding warrants to bear interest at the rate of three (3) per centum per annum, for the purpose of paying salaries of employees of the schools; providing that the total amount of such warrants outstanding shall never exceed Five Thousand Dollars (\$5,000) at any given time; providing that such warrants shall be issued serially and paid in order; providing the manner of issuing such warrants and validating the same; providing for the levy of a tax by the Board of Trustees to pay the interest on and retire such warrants within a designated time; and declaring an emergency. Acts 1941, 47th Leg., p. 522, ch. 319.

Art. 2790d—7. Refunding warrants authorized in independent districts in counties of 1,843 to 1,943

Section 1. This Act shall apply to independent school districts in counties having a population of not less than one thousand, eight hundred and forty-three (1,843) and not more than one thousand, nine hundred and forty-three (1,943) according to the last preceding Federal Census. Independent school districts in said counties are hereby authorized to fund into time warrants any legal outstanding obligations of said districts whether evidenced by scrip, warrants, contracts or any other instrument, which said obligations existed and were outstanding on the 10th day of May, 1941. Such time warrants shall be payable within ten (10) years from the effective date of this Act and shall bear interest at not more than five (5) per cent per annum, and the Board of Trustees of said independent school districts shall levy a sufficient tax and within legal limitations to pay the interest on said obligations, and to create a sinking fund sufficient to discharge them at maturity.

Sec. 2. Such school districts are hereby authorized to borrow the sum of not more than Fourteen Thousand Dollars (\$14,000) for the purpose of paying such outstanding obligations that were necessary expenses of said independent districts for the school years 1939-40 and 1940-41, and to issue time warrants within the limitations and upon the conditions prescribed in Section 1 hereof to evidence the indebtedness so incurred. The powers herein granted shall be exercised by the Boards of Trustees of said districts without the necessity of a vote by the people. Acts 1941, 47th Leg., p. 680, ch. 423.

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

Title of Act:

An Act applying only to independent school districts in counties having a popu-

lation of not less than one thousand, eight hundred and forty-three (1,843) and not more than one thousand, nine hundred and forty-three (1,943) according to the last preceding Federal Census; authorizing said school districts to fund into time warrants all outstanding obligations of said school districts which existed on May 10, 1941; prescribing the terms and conditions of issuance of said time warrants; authoriz-

ing said school districts to borrow money in a sum not to exceed Fourteen Thousand Dollars (\$14,000) with which to pay certain outstanding obligations; providing for the levying of a tax to pay the same and fixing the rate of interest thereon; prescribing the terms and conditions of said time warrants; and declaring an emergency. Acts 1941, 47th Leg., p. 680, ch. 423.

Art. 2790k. Tax rate in independent districts in certain cities

Tax rate in independent districts, see, also, articles 2802i—10 to 2802i—16.

Art. 2795. Levy of common school tax

Maximum maintenance and bond tax rate in common school districts in counties of 23,909 to 23,915

Acts 1941, 47th Leg., p. 427, ch. 257, read as follows: "Section 1. All common school districts in counties having a population of not less than twenty-three thousand, nine hundred and nine (23,909) and not more than twenty-three thousand, nine hundred and fifteen (23,915) inhabitants, according to the last preceding Federal Census, and which counties have an assessed valuation in excess of Twenty Million Dollars (\$20,000,000), according to the last preceding approved tax roll of such counties, are authorized to levy a tax for school maintenance and bond purposes, the maximum of which for both of such purposes shall not exceed One Dollar and Twenty-five Cents (\$.25) on the one hun-

dred dollars valuation of taxable property; said tax to be authorized, assessed, levied, and collected under the provisions of law as now provided.

"Sec. 2. No tax shall be levied, collected, abrogated, diminished, or increased, and no bond shall be issued hereunder until such action has been authorized by a majority of the votes cast at an election held in the common school district for such purpose, at which none but the property taxpaying qualified voters of such district shall be entitled to vote.

"Sec. 3. All laws or parts of laws in conflict with the provisions hereof are hereby expressly repealed."

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Art. 2802e—1. Construction and mortgaging of gymnasias, stadia, etc., by independent districts authorized; self-liquidating; proceedings validated

Section 1. All independent school districts, and all cities which have assumed the control of the public school situated therein, shall have power to build or purchase buildings and grounds located within or without the district or city, for the purpose of constructing gymnasias, stadia, or other recreational facilities, and to mortgage end encumber the same, and the income, tolls, fees, rents, and other revenues therefrom, and everything pertaining thereto, acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase or to construct, or to purchase and construct the same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the board of trustees of such independent school district or the governing body of such city.

Section 2. All independent school districts, and all cities which have assumed the control of the public schools situated therein, shall have the power to build additions to existing gymnasia, stadia, or other recreational facilities owned by the same, and to purchase additional buildings and grounds for the purpose of constructing additions to existing gymnasia, stadia, and other recreational facilities, and to mortgage and encumber said original stadia, gymnasia, or other recreational facilities, together with the additional buildings and grounds and additions to existing gymnasia, stadia, and other recreational facilities, and the income, tolls, fees, rents, and other charges thereof, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase the same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district and/or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of the bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the boards of trustees of such independent school district or the governing body of such city.

Section 3. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than taxation.

Section 4. Such bonds provided for in Section 1 shall be payable from the net revenues of the project together with all future extensions or additions thereto or replacements thereof, and the governing body of such school district, or city, shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenue, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses a sufficient amount of the revenues remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds plus a reasonable amount as a margin for safety. Such fund shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Section 5. Such bonds provided for in Section 2 shall be payable from the net revenues of the entire project, including the original existing gymnasia, stadia, and other recreational facilities, and the additional buildings and grounds and additions to the existing gymnasia, stadia, and other recreational facilities, together with all future extensions or additions thereto or replacements thereof and the governing body of such city or school district shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenues, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses, a sufficient amount of the revenue remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal

of and interest upon such bonds, plus a reasonable amount as a margin of safety. Such funds shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Section 6. Every bond issued or executed under this law shall contain the following clause:

“The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.”

Such bonds shall be presented to the Attorney General for his approval as is provided for the approval of other school bonds and in such cases the bonds shall be registered by the State Comptroller as in the case of other school bonds.

Section 7. No bonds authorized to be issued or executed under this Act, shall be issued or executed after the expiration of two (2) years from the effective date of this Act.

Section 5 of Acts 1939, 46th Leg., p. 285, set out above, except that the limitation as amended by Acts 1941, 47th Leg., p. 5, was 4 years instead of 2 years. The ch. 3, effective Feb. 17, 1941, covered the amendment filed July 2, 1941, made no provisions now contained in section 7 as reference to this prior amendment.

Section 8. No land upon which is situated any of the school improvements other than as described herein shall ever be subject to the payment of any indebtedness created hereunder, nor shall any encumbrance ever be executed thereon.

Section 9. That all acts performed, proceedings had and contracts executed by school districts to which this Act is applicable, and by the governing bodies thereof, which acts, proceedings and contracts were unauthorized by law at the time of their performance or execution, but which would have been authorized under the terms of this Act had the same been in force at such time, are hereby validated, ratified, approved and confirmed in all respects as fully as though they had been duly and legally performed, had and executed in the first instance. As amended, Acts 1941, 47th Leg., p. 911, ch. 561, § 1.

Passed over Governor's veto, July 2, 1941.
Filed without the Governor's signature,
July 2, 1941.

Effective July 2, 1941.

Section 2 of the amendatory Acts of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2802e—2. Validating proceedings for bond issues and tax levies for stadia by independent districts

Section 1. That all proceedings had prior to February 10, 1941, by the Boards of Trustees of all independent school districts in the State of Texas authorizing the issuance of bonds of such districts, in the amount of not exceeding Twenty-five Thousand Dollars (\$25,000), bearing interest at a rate of not exceeding three and one-half (3½) per centum per annum, payable annually or semiannually, and maturing serially over a period of not exceeding twenty (20) years from their date, for the purpose of constructing and equipping public free school stadia within such districts, pursuant to a majority vote of the qualified resident property taxpaying voters of such districts, who owned taxable property in such districts and who had duly rendered the same for taxation voting at an election held for that purpose, and levying a tax for the purpose of paying such bonds and the interest thereon, are hereby, in all things, ratified, approved, confirmed, and validated.

Sec. 2. That the acts of the Boards of Trustees of all independent school districts in the State of Texas prior to February 10, 1941, in order-

ing elections upon the question of issuing bonds of such districts for the purpose of constructing and equipping public free school stadia within such districts as prayed by petitions to such Boards of Trustees, signed by at least twenty (20) qualified resident property taxpaying voters of such districts who own taxable property in such districts and who had duly rendered the same for taxation; the acts of such Boards in giving notice of such school bond elections; the acts of such Boards in submitting such question to a vote of the qualified resident property taxpaying voters of such districts who owned taxable property in such districts and who had duly rendered the same for taxation at elections held for that purpose, and the elections so held; the act of the officers of such elections in making returns of such elections to the Boards of Trustees of such districts; the acts of such Boards in canvassing the returns and declaring the results of such elections; and the orders of such Boards in authorizing the issuance of such bonds for such purpose and the levying of a tax for the purpose of paying such bonds and the interest thereon as they mature, are hereby, in all things, ratified, approved, confirmed, and validated.

Sec. 3. That all such bonds authorized prior to February 10, 1941, but not executed prior to the effective date of this Act, when executed, shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Article 2786, of the 1925 Revised Civil Statutes, and such bonds shall be registered by the Comptroller of Public Accounts as provided in said Article; and that all such bonds authorized prior to February 10, 1941, and which have been approved by the Attorney General of the State of Texas, registered by the Comptroller of Public Accounts, and sold prior to the effective date of this Act, are hereby, in all things, ratified, approved, confirmed, and validated.

Sec. 4. If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity. Acts 1941, 47th Leg., p. 84, ch. 70.

Filed without Governor's signature
 March 21, 1941.

Effective March 31, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating all proceedings prior to February 10, 1941, by the Boards of Trustees of independent school districts of the State of Texas authorizing the issuance of bonds of such districts in the amount of not exceeding Twenty-five Thousand Dollars (\$25,000), bearing interest at a rate of not exceeding three and

one-half (3½) per centum per annum, payable annually or semi-annually, and maturing serially over a period not exceeding twenty (20) years from their date, for the purpose of constructing and equipping public free school stadia within such districts; validating the tax levies made for the payment of such bonds; validating all such bonds authorized prior to February 10, 1941, and which have been approved by the Attorney General, registered by the Comptroller, and sold prior to the effective date of this Act; enacting provisions incident thereto; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 84, ch. 70.

Art. 2802e—3. Independent districts having indebtedness exceeding 6% of assessed valuation; replacing or repairing condemned buildings; tax

Section 1. That any Independent School District in this State having an indebtedness in excess of six (6%) per cent of its assessed valuation, in which is located a school building which shall have been condemned by the Board of Trustees of such District, upon the recommenda-

tion of a certified licensed architect or by some other agency of the State or local government qualified to pass on the safety of school buildings, may levy a tax for the purchase, construction, repair or equipment of public free school buildings within the limits of such District and the purchase of necessary sites therefor, not to exceed Seventy-five (75¢) Cents on the One Hundred (\$100.00) Dollars valuation, such tax to be for the payment of current interest on and to provide a sinking fund sufficient to pay the principal of bonds issued for such purposes, and such District is hereby authorized to issue additional bonds for such purposes provided that the aggregate amount thereof at the time of issuance shall never reach an amount such that a tax of Seventy-five (75¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable property will not pay current interest; and provided further that the amount of school maintenance tax together with the amount of bond tax for any such District shall never exceed One and 25/100 (\$1.25) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property, and that if the rate of bond tax, together with the rate of maintenance tax voted in the District, shall at any time exceed One and 25/100 (\$1.25) Dollars on the One Hundred (\$100.00) Dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One and 25/100 (\$1.25) Dollars.

Sec. 2. The additional tax herein authorized shall not be levied, and no bonds shall be issued hereunder until the issuance of said bonds and the levying of said tax have been authorized by a majority of the votes cast at an election held in the District for such purpose, at which election none but qualified electors of the District who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote. Acts 1941, 47th Leg., p. 365, ch. 203.

Filed without the Governor's signature, April 30, 1941.

Effective May 10, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing any School District having an indebtedness in excess of six (6%) per cent of its assessed valuation in which is located a school building which shall have been condemned by certain authorities, to levy a tax of not to exceed Seventy-five (75¢) Cents on the One Hundred (\$100.00) Dollars valuation for the purchase, construction, repair or equipment of school buildings and the payment of principal and interest on bonds issued for such purpose; providing that the ag-

gregate amount of such bonds at the time of issuance shall never reach an amount such that a tax of Seventy-five (75¢) Cents on the One Hundred (\$100.00) Dollars valuation will not pay interest and principal as they accrue and mature; providing that the amount of maintenance tax and the amount of bond tax together shall never exceed One and 25/100 (\$1.25) Dollars on the One Hundred (\$100.00) Dollars valuation; providing that the bond tax shall operate to reduce the maintenance tax to the difference between the rate of bond tax and One and 25/100 (\$1.25) Dollars; providing that such tax shall not be levied and such bonds shall not be issued until authorized by an election; enacting other provisions relating to the subject hereof; and declaring an emergency. Acts 1941, 47th Leg., p. 365, ch. 203.

Art. 2802e—4. Construction and mortgaging of gymnasias, stadia, etc., by independent districts; counties of 21,590 to 21,620; self liquidating; proceedings validated

Section 1. All independent school districts, and all cities which have assumed the control of the public schools situated therein, in any county having a population of not less than twenty-one thousand, five hundred and ninety (21,590) and not more than twenty-one thousand, six hundred and twenty (21,620) according to the last preceding Federal Census, shall have power to build or purchase buildings and grounds located within or without the district or city, for the purpose of con-

structing gymnasias, stadia, or other recreational facilities, and to mortgage and encumber the same, and the income, tolls, fees, rents, and other revenues therefrom, and everything pertaining thereto, acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase or to construct, or to purchase and construct the same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of the bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the board of trustees of such independent school district or the governing body of such city.

Sec. 2. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than taxation.

Sec. 3. Such bonds shall be payable from the net revenues of the project together with all future extensions or additions thereto or replacements thereof, and the governing body of such school district, or city, shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenue, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses a sufficient amount of the revenues remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds plus a reasonable amount as a margin for safety. Such fund shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided may be used for any lawful purpose.

Sec. 4. All independent school districts, and all cities which have assumed the control of the public schools situated therein shall have the power to build additions to existing gymnasias, stadia, or other recreational facilities owned by the same, and to purchase additional buildings and grounds for the purpose of constructing additions to existing gymnasias, stadia, and other recreational facilities, and to mortgage and encumber said original gymnasias, stadia, and other recreational facilities, together with the additional buildings and grounds and additions to existing gymnasias, stadia, and other recreational facilities, and the income, tolls, fees, rents, and other charges thereof, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds, notes, or warrants to secure the payment of funds to purchase same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district and/or city but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school

district or city to issue bonds for any other purpose authorized by law; provided that no election for the issuance of the evidence of indebtedness herein authorized shall be necessary, but the same may be authorized by a majority vote of the board of trustees of such independent school district or the governing body of such city.

Sec. 5. Such bonds provided for in Section 4 shall be payable from the net revenues of the entire project, including the original existing gymnasias, stadia, and other recreational facilities and the additional buildings and grounds and additions to the existing gymnasias, stadia, and other recreational facilities, together with all future extensions or additions thereto or replacements thereof, and the governing body of such city or school district shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenue, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses a sufficient amount of the revenues remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds plus a reasonable amount as a margin of safety. Such fund shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Sec. 6. Every bond issued or executed under this law shall contain the following clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Such bonds shall be presented to the Attorney General for his approval as is provided for the approval of other school bonds and in such cases the bonds shall be registered by the State Comptroller as in the case of other school bonds.

Sec. 7. No bonds authorized to be issued or executed under this Act, shall be issued or executed after the expiration of two (2) years from the effective date of this Act.

Sec. 8. No land upon which is situated any of the school improvements other than as described herein shall ever be subject to the payment of any indebtedness created hereunder, nor shall any encumbrance ever be executed thereon.

Sec. 9. That all acts performed, proceedings had and contracts executed by school districts to which this Act is applicable, and all cities which have assumed the control of the public schools situated therein, and by the governing bodies thereof, which acts, proceedings and contracts were unauthorized by law at the time of their performance or execution, but which would have been authorized under the terms of this Act had the same been in force at such time, are hereby validated, ratified, approved, and confirmed in all respects as fully as though they had been duly and legally performed, had and executed in the first instance. Acts 1941, 47th Leg., p. 691, ch. 432.

Approved and effective June 2, 1941.

Section 10 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing independent school districts and cities which have assumed

the control of public schools situated therein, in any county having a population of not less than twenty-one thousand, five hundred and ninety (21,590) and not more than twenty-one thousand, six hundred and twenty (21,620) according to the last preceding Federal Census, to build or purchase buildings and grounds located with-

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

in or without the district or city, for the purpose of constructing gymnasia, stadia, or other recreational facilities, and to mortgage and encumber the same, and the income thereof, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase or construct or to purchase and construct the same; providing that the purchaser shall have a franchise to operate same in case of foreclosure; providing that no such obligation shall ever be a debt of any such school district or city, but solely a charge upon the property so encumbered; providing that no election for the issuance of such bonds shall be necessary; providing that such project shall be deemed self-liquidating in character; providing that the cost of maintaining and operating the project shall be a first charge against the revenues of the project; providing that such bonds shall be payable from the net revenues of the project, together with all future extensions or additions thereto, or replacements thereof; providing for the payment of said bonds; providing that the holder of said bonds shall never have the right to demand payment thereof out of any funds raised or to be raised by taxa-

tion; providing that said bonds shall be approved by the Attorney General and registered by the State Comptroller; providing that no bonds authorized shall be issued or executed after the expiration of two (2) years from the effective date of this Act; providing that no land upon which is situated school improvements shall be subject to the indebtedness created hereunder; validating acts heretofore performed by school districts; enacting provisions incident and relating to the subject and purpose of this Act; and providing further for the issuance of revenue bonds by independent school districts and cities which have assumed the control of the public schools situated therein, for the purpose of building additions to existing gymnasia, stadia, and other recreational facilities owned by the same, and purchasing additional buildings and grounds for the purpose of constructing additions to existing gymnasia, stadia, and other recreational facilities; providing that any bonds issued shall be payable from the net revenues of the projects after payment of the operating and maintenance charges; and declaring an emergency. Acts 1941, 47th Leg., p. 691, ch. 432.

[Art. 2802f. Delinquent tax penalties in independent districts having city of 275,000]

Refunding bonds, issuance by districts issuing delinquent tax notes or certificates under this article, see article 2802f—2.

Art. 2802f—2. Refunding bonds, issuance by Independent School Districts which have issued delinquent tax notes or certificates under Article 2802f—1; validation of outstanding notes and certificates.

Section 1. That any independent school district which heretofore has issued delinquent tax notes or certificates of indebtedness under the provisions of Chapter 16, passed at the 46th Legislature, as contained in Senate Bill No. 419, Acts of the 46th Legislature,¹ is hereby authorized to issue its negotiable bonds for the purpose of refunding any or all of such outstanding notes or certificates, and to levy a tax sufficient to pay such bonds and the interest thereon; provided however, that no such bonds shall be issued, and no tax shall be levied therefor, unless and until authorized by a majority vote at an election called and held for that purpose.

Sec. 2. Such election shall be called and held in the manner prescribed by General Law with reference to the calling and holding elections for the issuance of school house bonds by independent school districts, except that the election may be called by the Board of Trustees of the district without the prerequisite of a petition. Such bonds may mature serially or otherwise in not to exceed fifteen (15) years, and shall not bear a greater rate of interest than the notes or certificates to be funded thereby.

Sec. 3. Before any of said refunding bonds shall be exchanged for said notes or certificates, said bonds and the record pertaining to their issuance shall be submitted to the Attorney General of Texas for his examination; and if said bonds are issued in accordance with this Act, he shall issue his certificate showing that he has examined the same;

and that in his opinion said bonds are valid. Thereafter, said refunding bonds shall be registered by the Comptroller of Public Accounts as such notes or certificates are surrendered to him and cancelled. Such refunding bonds, after receiving the certificate of the Attorney General and having been registered in the Comptroller's office, shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds, a certified copy of the certificate of the Attorney General shall be admitted in evidence to show validity of said bonds, together with the coupons pertaining thereto. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Sec. 4. All such notes and certificates heretofore issued and now outstanding and unpaid are hereby validated; provided however, that this section shall not apply to any notes or certificates the validity of which shall have been attacked in any litigation pending at the time this Act becomes effective. Acts 1941, 47th Leg., p. 195, ch. 141.

¹ Article 2802f—1.

Approved and effective April 15, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Independent School Districts which heretofore have issued delinquent tax notes or certificates of indebtedness under the provisions of Chapter 16, passed at the 46th Legislature, as contained in Senate Bill No. 419, Acts of the 46th Legislature, to issue negotiable bonds to refund such notes and certificates, and to levy a tax for payment of such bonds; providing that no such refunding bonds shall be issued, and no tax shall be levied

therefor, unless authorized by a majority vote at an election; enacting provisions with reference to the calling and holding of such election and with reference to the issuance of such bonds; requiring approval by the Attorney General, registration thereof by the Comptroller of Public Accounts, and prescribing the effect thereof; validating such notes and certificates, with the provision that such validation shall not apply to any notes or certificates the validity of which shall have been attacked in any litigation pending at the time this Act becomes effective; enacting other provisions relating to such subject; and declaring an emergency. Acts 1941, 47th Leg., p. 195, ch. 141.

Art. 2802i—10. Maximum tax rate in independent school districts of 5,815 to 5,835

In any independent school district having and including within its limits a city or town which according to the latest Federal Census had a population of not fewer than five thousand, eight hundred and fifteen (5,815) and not more than five thousand, eight hundred and thirty-five (5,835) inhabitants, the school district trustees of the independent school district, whether such independent school district was created under the General Laws or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein, an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property of the district;

(2) For the purchase, construction, repair, or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty (50) Cents on the one hundred dollars valuation of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purpose.

(3) The amount of maintenance tax, together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty

Cents (\$1.50) on the one hundred dollars valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district, shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50).

(4) No tax shall be levied, collected, abrogated, diminished, or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1935, 44th Leg., p. 177, ch. 73, § 1, as amended Acts 1941, 47th Leg., p. 34, ch. 20, § 1.

Filed without Governor's signature Feb. 26, 1941.

Section 2 of the amendatory Act of 1941 repealed all inconsistent laws and parts of laws, both General and Special.

Effective March 6, 1941.

Art. 2802i—11. Maximum maintenance and bond tax rate; certain independent school districts within a county and containing ninety square miles or over; validation of proceedings

Section 1. Any independent school district situated wholly within one county, and containing not less than ninety (90) square miles in area, and also having an assessed property valuation of not less than Thirty-five Million Dollars (\$35,000,000), may by vote of the qualified resident property taxpaying voters of the district, levy a tax for school maintenance and bond purposes, the maximum of which for both of such purposes shall be not exceeding for one year One Dollar and Twenty-five Cents (\$1.25) on the one hundred dollars valuation of taxable property in such district; said tax to be authorized, levied, assessed, and collected under the provisions of the Statutes applicable to independent school district taxes.

Sec. 2. That where, under authority of Section 3, of Article 7, of the Constitution of the State of Texas, a majority of the resident property taxpayers, being qualified electors of any independent school district of the class of school districts defined in Section 1 of this Act, voting on the proposition, having voted at an election held in such school district in favor of the levy of a tax for school maintenance and bond purposes of and at the rate of not exceeding One Dollar and Twenty-five Cents (\$1.25) on the one hundred dollars valuation of taxable property in such school district, the canvass of said vote, revealing such majority, having been recorded in the minutes of the board of trustees of any such school district, and where thereafter the board of trustees of any such school district, by orders passed and recorded in its minutes, has levied such tax for the purposes stated, each such election, and all acts and proceedings had and done in connection therewith by the board of trustees of any such school district or districts, are hereby legalized, approved, and validated. It being the intent hereof to authorize, confirm, and ratify all acts and proceedings of the board of trustees of any such district or districts in respect of any such school tax election, the levy of taxes pursuant to such election for school maintenance and bond purposes, with like effect, as though at the time or times said acts and proceedings were done or had there existed statutory authority for the doing thereof, and the power to levy such taxes each year hereafter is hereby expressly delegated to the board of trustees of any such school district.

Sec. 3. All acts and proceedings of the county board of school trustees of any such county, increasing the area of any independent school district of the class defined in Section 1 of this Act, pursuant to request therefor in writing made to the county board of school trustees by the board of trustees of such school district, as shown by the minutes of said boards, respectively, are hereby, in all things, legalized, approved, and validated, and the territory so received shall be hereafter a component part of said independent school district. All acts and proceedings of the board of trustees of any such independent school district, in respect to increasing the area thereof, and which acts or proceedings are recorded in the minutes of said board, and were and are approved by the county board of school trustees of the county in which any such school district is situated, as shown by the minutes of said county board of school trustees, are hereby, in all things, legalized, approved, and validated.

Sec. 4. Where any independent school district of the class defined in Section 1 of this Act has been converted into a junior college district and has been continuously recognized as a junior college district by the State Board of Education, all acts or proceedings of the county board of school trustees of the county in which such district is situated, increasing the area of such junior college district so that the boundaries thereof will be coterminous with the boundaries of such independent school district, pursuant to request therefor in writing made to the county board of school trustees by the board of education of such junior college district, as shown by the minutes of said boards, respectively, are hereby, in all things, legalized, approved, and validated, and the territory so received shall be hereafter a component part of said junior college district. All acts or proceedings of the board of education of any such junior college district, in respect to increasing the area thereof so that the boundaries of the junior college district will be coterminous with the boundaries of such independent school district, and which acts or proceedings are recorded in the minutes of said board, and were and are approved by the county board of school trustees of the county in which any such junior college district is situated, as shown by the minutes of said county board of school trustees, are hereby, in all things, legalized, approved, and validated.

Sec. 5. The provisions of this Act shall not apply to any proceedings, the validity of which has been contested or attacked in any pending suit or litigation.

Sec. 6. If any section, clause, paragraph, or sentence of this Act shall be declared unconstitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall remain in full force and effect.

Sec. 6a.- Nothing in this Act shall in any manner affect, repeal, suspend or modify any part of Senate Bill No. 402, Acts of the Regular Session of the Thirty-eighth Legislature.¹ Acts 1941, 47th Leg., p. 202, ch. 145.

¹ Acts 1923, 38th Leg., Spec.L., p. 317, ch. 91.

Approved and effective April 15, 1941.

Section 7 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the qualified voters of any independent school district situated wholly within one county, and containing

not less than ninety (90) square miles in area, and also having an assessed property valuation of not less than Thirty-five Million Dollars (\$35,000,000), to determine whether or not any such district shall levy a tax for maintenance and bond purposes, the maximum of which for both of such purposes shall not exceed One Dollar and Twenty-five Cents (\$1.25) on the one hundred dollars valuation in any one year; providing that said tax shall be author-

ized, levied, assessed, and collected under provisions of the law applicable to independent school district taxes; validating elections heretofore held in any such district at which a tax for the amount and the purposes stated was authorized by the qualified voters voting on the proposition; validating all acts and proceedings of the county board of school trustees of the county in which any such independent school district is situated increasing the area of such independent school district; validating all acts and proceedings of the board of trustees of any such independent school district in respect to increasing the area thereof; providing that where any such independent school district has been converted into a junior college district, and has been continuously recognized as a junior college district by the State Board of Education, all acts or proceedings of the board of school trustees of the county in which such junior college district is situated, increasing the area of such junior college district so that the boundaries thereof will be the same as the boundaries of such independent school district,

are hereby legalized, approved, and validated; providing that all acts or proceedings of the board of education of any such junior college district in respect to increasing the area thereof so that the boundaries of the junior college district will be coterminous with the boundaries of such independent school district, which acts or proceedings have been approved by the board of county school trustees, are hereby legalized, approved, and validated; providing the provisions hereof shall not apply to any such proceedings, the validity of which has been contested in any pending suit or litigation; providing that if any part of this Act be held unconstitutional, it shall not affect any other part of this Act; enacting provisions incident and relating to the subject and purpose of this Act; providing that nothing in this Act shall in any manner affect, repeal, suspend or modify any part of Senate Bill No. 402, Acts of the Regular Session of the Thirty-eighth Legislature; and declaring an emergency. Acts 1941, 47th Leg., p. 202, ch. 145.

Art. 2802i—12. Maximum tax rate; certain independent districts having a scholastic population of 830 to 840

Section 1. In all Independent School Districts which have a Scholastic population of not more than eight hundred forty (840), and not less than eight hundred thirty (830), according to the 1940-1941 Scholastic Census, the Trustees of the Independent School Districts provided for in this Act, shall have the power to levy, and cause to be collected, the annual ad valorem tax of not to exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation of taxable property of the Districts as fixed by the Board of Trustees for such Districts.

Sec. 2. The taxes hereinabove imposed shall never be levied, collected, abrogated, diminished, or increased, and no bond or bonds shall be issued thereunder, until such action has been authorized by a majority of the qualified property taxpaying voters of such Districts, voting at an election to be held for that purpose. Acts 1941, 47th Leg., p. 371, ch. 208.

Filed without the Governor's signature, May 3, 1941.

Effective May 13, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied in all Independent School Districts having a scholastic population of not more than eight hundred forty (840), nor less than eight hundred thirty (830), according to the 1940-1941 scholastic census; and declaring an emergency. Acts 1941, 47th Leg., p. 371, ch. 208.

Art. 2802i—13. Maximum tax rate in Independent School Districts, having a scholastic population of 630 to 640, in certain counties

Section 1. In all Independent School Districts having a scholastic population of not more than six hundred forty (640) and not less than six hundred thirty (630), according to the 1940-1941 Scholastic Census, located in any county having an area of 495 square miles, the School District Trustees of such School Districts shall have the power to levy and cause to be collected, the annual ad valorem tax of not to exceed One Dollar and Fifteen Cents (\$1.15) on the One Hundred (\$100.00) Dol-

lars valuation of taxable property of the Districts as fixed by the Board of Trustees for such districts.

Sec. 2. In all such School Districts, it shall be lawful for the School District Trustees to issue time warrants in a sum of not to exceed Ten Thousand (\$10,000.00) Dollars, which shall bear interest at a rate of not to exceed four (4%) per cent per annum.

Sec. 3. The sum of Fifteen (15¢) Cents out of the tax above provided for shall be set aside in a special fund to be used for the specific and sole purpose of paying the interest on said warrants and to liquidate said warrants as they mature, and no tax in excess of One (\$1.00) Dollar shall ever be levied unless such excess is for the purpose of paying the time warrants and interest thereon herein authorized.

Sec. 4. The taxes hereinabove imposed shall never be levied, collected, abrogated, diminished, or increased, and no bond or bonds shall be issued thereunder until such action has been authorized by a majority of the qualified taxpaying voters of such Districts, voting at an election to be held for that purpose.

Sec. 5. If any section, sentence, clause or part of this Act shall, for any reason, be held to be invalid, such decision shall not affect the remaining portions of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause or part thereof, irrespective of the fact that any other sentence, section, clause or part thereof may be declared invalid. Acts 1941, 47th Leg., p. 370, ch. 207.

Filed without the Governor's signature,
May 3, 1941.

Effective May 13, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied in all Independent School Dis-

tricts having a scholastic population of not more than six hundred forty (640) nor less than six hundred thirty (630), according to the 1940-1941 Scholastic Census; providing for the issuance of time warrants; providing for the setting aside of Fifteen (15¢) Cents of said tax for the payment of interest and the liquidation of said time warrants; and declaring an emergency. Acts 1941, 47th Leg., p. 370, ch. 207.

Art. 2802i—14. Maximum tax rate in independent school districts having scholastic population of 775 to 785

In any independent school district which, according to the 1940-1941 scholastic census, had a scholastic population of not fewer than seven hundred and seventy-five (775) and not more than seven hundred and eighty-five (785) approved scholastics, the school trustees of such independent school district, whether such district was created by General or Special Law, shall have the power to levy and cause to be collected the annual taxes herein authorized subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One Dollar and Twenty-five Cents (\$1.25) on the one hundred dollars valuation of the taxable property of the district.

(2) No tax shall be levied, collected, abrogated, diminished, or increased, and no bonds shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1941, 47th Leg., p. 537, ch. 331, § 1.

Filed without the Governor's signature,
May 24, 1941.

Effective May 26, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws both General and Special. Section 3 declared

an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied for school purposes in all independent school districts having a scholastic population, according to the 1940-1941 scholastic census, of not less than seven hundred and seventy-five (775) and not more than seven hundred and eighty-five (785) approved scholastics, whether such

school district is organized under general or special law; provided, that no such tax shall be levied, collected, abrogated, diminished, or increased, and no bonds shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held for such purpose; prescribing the qualifications of voters eligible to vote in such election; repealing all laws and parts of laws in conflict; and declaring an emergency. Acts 1941, 47th Leg., p. 537, ch. 331.

Art. 2802i—15. Maximum tax rates in independent districts having city or town of 680 to 690 in counties of 4,050 to 4,060

In any independent school district having and including within its limits a city or town which, according to the then latest preceding Federal Census, had a population of not fewer than six hundred and eighty (680) and not more than six hundred and ninety (690) inhabitants, and being in counties containing not less than four thousand and fifty (4050) and not more than four thousand and sixty (4060) inhabitants, according to the then latest preceding Federal Census, the school district trustees of the independent school district, whether such district was created under the General Law or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property of the district;

(2) For the purchase, construction, repair, or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed One Hundred (100) Cents on the one hundred dollars of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purposes.

(3) The amount of maintenance tax, together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50).

(4) No tax shall be levied, collected, abrogated, diminished, or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property-owning tax-paying qualified voters of such district shall be entitled to vote. Acts 1941, 47th Leg., p. 678, ch. 421.

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws both general and special. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix a maximum rate of tax to be levied for school purposes in all independent school districts which include within their limits a city or town which, according to the latest preceding Federal Census, had a population of not fewer than six hundred and eighty (680) and not more than six hundred and ninety (690) inhab-

itants, and being in counties containing not less than four thousand and fifty (4050) and not more than four thousand and sixty (4060) inhabitants, according to the last preceding Federal Census, whether organ-

ized under a general or special law; providing for election authorizing tax rate; repealing all laws conflicting herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 678, ch. 421.

Art. 2802i—16. Maximum tax rate in independent districts in counties of 10,400 to 10,660

Section 1. In all counties in this State which, according to the Federal Census of 1940, had a population of not less than ten thousand, four hundred (10,400) and not more than ten thousand, six hundred and sixty (10,660), the School District Trustees of any Independent School District in any such county, whether such Independent School District was created under the General Laws or any Special Law or Laws, shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools in any such District an ad valorem tax not to exceed Seventy-five (75) Cents on the one hundred dollars valuation of taxable property within the District;

(2) For the purchase, construction, or repair of equipment of public free school buildings within the limits of any such District and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Seventy-five (75) Cents on the one hundred dollars valuation of taxable property within the District, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which any such District is empowered to issue, or has heretofore lawfully issued for such purpose;

(3) The amount of maintenance tax, together with the amount of bond tax of any such District shall never exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property within such District; and if the rate of bond tax, together with the rate of maintenance tax voted in the District shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50);

(4) No increase of the rate of tax authorized by any previous law shall be made until such action has been authorized by a majority of the votes cast at an election held in a District for such purpose, at which none but property taxpaying qualified voters of such District shall be entitled to vote.

Sec. 2. If any part or portion of this Act be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall be deemed to control. Acts 1941, 47th Leg., p. 675, ch. 417.

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act limiting the tax rate which may be levied in any independent school district situated in any county in this State which county, according to the Federal Census of 1940, had a population of not less than ten thousand, four hundred (10,400) and not more than ten thousand, six

hundred and sixty (10,660), and providing for a bond tax of not to exceed Seventy-five (75) Cents on the one hundred dollars valuation of taxable property in any such district, and a maintenance tax of not to exceed Seventy-five (75) Cents on the one hundred dollars valuation of taxable property, and further providing that the amount of maintenance tax, together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property within any such district and if the rate of bond tax, together with the

rate of maintenance tax voted in the district shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50), and further providing that no increase of the rate of tax authorized by any previous law shall be made until

such action has been authorized by a majority of the votes cast by property tax-paying qualified voters at an election held in any such district for such purpose, and providing that if any part or portion of this Act shall be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall govern; and declaring an emergency. Acts 1941, 47th Leg., p. 675, ch. 417.

Art. 2802i—17. Maximum tax rate in independent districts including city or town of 6425 to 6457

Section 1. In any independent school district having and including within its limits a city or town which, according to the then latest Federal Census, has a population of not fewer than sixty-four hundred and twenty-five (6425) and not more than sixty-four hundred and seventy-five (6475) inhabitants, shall have the power to levy a tax for school maintenance and bond purposes, the maximum of which for both of such purposes shall be One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property; said tax to be authorized, assessed, levied, and collected under the provisions of law as now provided.

Sec. 2. The taxes hereinabove imposed shall never be levied, collected, abrogated, diminished, or increased, and no bonds or bond shall be issued thereunder, until such action has been authorized by a majority of the qualified property taxpaying voters of such districts, voting at an election to be held for that purpose. Acts 1941, 47th Leg., p. 831, ch. 513.

Filed without the Governor's signature, June 21, 1941.

Effective June 21, 1941.

Section 3 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to fix the maximum rate of tax to be levied in any independent school district having and including within its limits a city or town which, according to the then latest Federal Census, has a

population of not fewer than sixty-four hundred and twenty-five (6425) and not more than sixty-four hundred and seventy-five (6475) inhabitants; and providing that the taxes hereinabove imposed shall never be levied, collected, diminished, or increased until such action has been authorized by a majority of the qualified property taxpaying voters at an election held for that purpose; and providing further that no bonds shall be issued except by a majority of the qualified voters of the district; and declaring an emergency. Acts 1941, 47th Leg., p. 831, ch. 513.

Art. 2802i—18. Maximum maintenance and bond tax rate in common and independent districts

Section 1. Any Common and Independent School District in this State, whether the same be created by Special Law or by General Law, which may now or which hereafter shall become unable to raise sufficient funds by the levying of a tax of Fifty (50¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable properties therein to provide for the payment of the current interest on and to provide a sinking fund sufficient to pay at maturity the principal of bonds which such District may have issued prior to passage of this Act, may levy the following taxes, if the same be authorized by the property taxpaying qualified voters of such District as hereinafter provided:

1. A tax not to exceed One (\$1.00) Dollar on the One Hundred (\$100.00) Dollars valuation for the payment of the current interest on and to provide a sinking fund sufficient to pay at maturity the principal of bonds which said District may have outstanding.

2. A tax not to exceed Fifty (50¢) Cents on the One Hundred (\$100.00) Dollars valuation for the further maintenance of public free schools in such District.

3. No tax shall be levied, collected or increased under the provisions of this Act until such action has been authorized by a majority of the votes cast at an election held in the District for such purposes at which none but the property taxpaying qualified voters in such District shall be entitled to vote.

Sec. 2. Before an election is held to determine the proposition of the levying of such taxes, a petition therefor, signed by twenty (20) or more, or a majority of those entitled to vote at such election, shall be presented to the County Judge of the county if for a Common School District, and to the District Trustees if for an Independent School District. On presentation of said petition, said officer or officers shall order an election for such purposes, and order the Sheriff to post notices thereof in three (3) places in the District for ten (10) days prior thereto, or if for an Independent School District, the Secretary of said Board of Trustees shall post such notices. The petition, election order and notices of election shall in all cases state the specific rate of tax to be voted for bonds and if in addition the proposition of levying a maintenance tax is to be submitted, the petition, election order and notice of election shall also state specifically the proposition and the amount of such maintenance tax. All election orders and notices of election shall state the time and place of holding the election. Where the proposition of increasing the tax rate for bonds is submitted, the ballots shall have written or printed thereon the words "For bond tax of not exceeding _____" and "Against bond tax of not exceeding _____"; each such proposition shall be completed by specifying the maximum amount of tax to be voted. If the proposition of levying a maintenance tax of not exceeding Fifty (50¢) Cents in addition to the bond tax authorized is to be submitted at such election, the ballot shall also have written or printed thereon the words "For bond tax of _____ and maintenance tax of _____" and "Against bond tax of _____ and maintenance tax of _____"; and the blanks in such proposition shall be filled in with the amount of the tax for each purpose so as to complete the statement of the proposition. The Commissioners' Court for Common School Districts, and the Board of Trustees for Independent Districts, shall canvass the returns and declare the results of all elections hereunder; and said election shall be held and conducted as provided by law if for general elections except as provided herein. Acts 1941, 47th Leg., p. 804, ch. 499.

Approved June 14, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act relating to taxes in Common and Independent School Districts; authorizing

Districts to increase tax levies for debt service to One (\$1.00) Dollar, in some instances, and total tax for maintenance and bonds to not more than One and 50/100 (\$1.50) Dollars under the circumstances prescribed in this Act, and declaring an emergency. Acts 1941, 47th Leg., p. 804, ch. 499.

Art. 2802i—19. Additional maintenance taxes in independent districts in counties of 103,000 to 109,000; elections

Section 1. Any independent school district which is located in any county in this State having a population not less than one hundred and three thousand (103,000) and not more than one hundred and nine thousand (109,000), according to the last preceding Federal Census, may

levy, assess, and collect taxes at not to exceed the following rates per one hundred dollars of assessed valuation of taxable property, to wit:

For maintenance purposes One Dollar and Fifty Cents (\$1.50) per one hundred dollars of assessed valuation; for bond interest and sinking fund purposes Fifty (50) Cents per one hundred dollars of assessed valuation, but the combined tax for both purposes shall never exceed One Dollar and Fifty Cents (\$1.50) per one hundred dollars of assessed valuation. Such taxes shall be assessed, levied, and collected pursuant to the provisions hereof and of the general law applicable to such districts.

Sec. 2. Before levying any maintenance tax in excess of Fifty (50) Cents upon the one hundred dollars of assessed valuation as hereby authorized, the trustees of any such district shall order and hold an election within such district for the purpose of determining whether a majority of the voters voting thereat, desire to authorize the trustees of such district to levy such tax. At such election none but qualified voters who are property taxpayers of such district shall be entitled to vote. The election order and notice of election shall in all cases either state the specific rate of tax to be voted upon, or that the rate shall not exceed the limit herein specified.

Notice of such election shall be given for the length of time and in the manner provided by law for elections for trustees of independent school districts, and such election shall be conducted in accordance with the general law so far as applicable thereto. The ballots for such maintenance tax election shall have written or printed thereon the words "For the School Tax" and "Against the School Tax." If said maintenance tax proposition is defeated by a majority of the voters at an election held for such purpose, no other election shall be held upon such proposition for one year after the date of said election. Acts 1941, 47th Leg., p. 740, ch. 461.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing independent school districts in counties having a population of

not less than one hundred and three thousand (103,000) and not more than one hundred and nine thousand (109,000), according to the last preceding Federal Census, to levy and collect additional maintenance taxes; providing for elections to authorize such tax levies; and declaring an emergency. Acts 1941, 47th Leg., p. 740, ch. 461.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2809. Consolidation: Teachers

Teachers' contracts for not exceeding 2 years in common school or consolidated common school districts, see articles 2750a, 2750a—1.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—1. Apportionment of available school funds including State per capita in certain counties

Supplemental scholastic census where population increases from camps, reservations or building projects as affecting apportionment, see article 2816a.

Art. 2815g—1a. Provisions of act inapplicable to counties of over 290,000 and less than 350,000

Provided further that in all counties having more than two hundred ninety thousand (290,000) and less than three hundred fifty thousand (350,000) population according to the last preceding Federal Census, the provisions of the foregoing Articles, 2815a, 2815b, 2815c, 2815d, 2815e, 2815f, 2815g, and 2815g-1, shall not apply, and the provisions of said Articles shall be without force and effect.

In all said counties having more than two hundred ninety thousand (290,000) and less than three hundred fifty thousand (350,000) population according to the last preceding Federal Census, the members of the County Board of School Trustees of the public schools of the county shall receive Five (\$5.00) Dollars per day for their services in attending meetings, inspecting schools, and performing the duties imposed upon them by law, to be paid out of the General Fund of the county by warrants drawn on order of the Commissioners' Court, after approval of the account by the County Superintendent. As amended, 1941, 47th Leg., p. 842, ch. 517, § 1.

Filed without the Governor's signature,
June 23, 1941.

Effective June 23, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2815g—13. Validating elections for establishing, consolidating, abolishing, or changing independent or common districts

Validation of proceedings increasing area of certain independent districts, see article 2802i—11, § 3.

Art. 2815g—25. Validation of school districts, bonds, tax levies, and acts; exceptions

Section 1. All School Districts, including Common School Districts, Independent School Districts, Consolidated Common School Districts, Rural High School Districts, all County Line School Districts, including County Line Common School Districts, County Line Independent School Districts, County Line Consolidated Common School Districts, County Line Consolidated Independent School Districts, County Line Rural High School Districts, and Districts formed by Consolidation of Rural High School Districts and contiguous Independent School Districts, and all other School Districts, groups or annexations of whole Districts or parts of Districts by vote of the people residing in such Districts or by action of County School Boards, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any County, or by the Legislature of the State of Texas, and heretofore recognized by either State or County authorities as School Districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. All acts of the Boards of Trustees in such Districts and all Commissioners' Courts in ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such School Districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, and all bond assumption tax elections, are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any County in the creation of any District was omitted shall in no wise invalidate such District; and the fact that by inadvertence or oversight any act

was omitted by the Board of Trustees of any such District or the Commissioners' Court of any County in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such District, or in the issuance of the bonds of any such District, shall in no wise invalidate any of such proceedings or any bonds so issued by such Districts.

All acts of the County Boards of Trustees of any and all Counties in rearranging, changing, or subdividing such School Districts or increasing or decreasing the area thereof, in any School District of any kind, or in creating new Districts out of parts of existing Districts or otherwise, are hereby in all things validated.

Sec. 2. All School Districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax as is now being levied, assessed and collected therein, and heretofore authorized or attempted to be authorized by any act, or acts of said Districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. This Act shall not apply to any District, the organization or creation of which, or consolidation or annexation of any territory in or to such District which is now involved in litigation, or the validity of the organization or creation of which, or consolidation or annexation of territory in or to such Districts, is attacked in any suit or litigation pending in any court of competent jurisdiction which has been filed heretofore or within twenty (20) days after the effective date of this Act. Provided further that this Act shall not apply to any District which may have been established or consolidated, and which was later returned to its original status.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act. Acts 1941, 47th Leg., p. 21, ch. 11.

Filed without Governor's signature Feb. 18, 1941.

Effective Feb. 27, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the organization and creation of all School Districts, including Common School Districts, Independent School Districts, Consolidated Common School Districts, all County Line School Districts, including County Line Common School Districts, County Line Independent School Districts, County Line Consolidated Common School Districts, County Line Consolidated Independent School Districts, Rural High School Districts, and Districts formed by consolidation of Rural High School Districts and contiguous Independent School Districts, and all other School Districts, whether created by General or Special Law or by County Boards of Trustees; and providing this Act shall not validate the organization or creation of any

District, or consolidation or annexation of any District in or to such District where the same is now involved in litigation, or where suit or litigation is filed with reference thereto within twenty (20) days after the effective date of this Act; validating the Acts of said County Boards of Trustees and Boards of Trustees of such Districts and of the County Commissioners' Courts in certain instances; validating all proceedings and acts of said Boards of Trustees and of the County Commissioners' Courts in certain instances; validating all bonds voted, authorized and/or now outstanding of said Districts; validating all tax levies made in behalf of said Districts; authorizing and empowering all School Districts mentioned in this Act to levy, assess, and collect the same rate of taxes as is now being levied, assessed, and collected therein, and heretofore authorized or attempted to be authorized by any act, or acts of said Districts, or by any Act of the Legislature; making certain exemptions; and declaring an emergency. Acts 1941, 47th Leg., p. 21, ch. 11.

Art. 2815g—26. Validating certain county line independent districts

Section 1. That every county line independent school district within this State, whose area has been increased by the acts of the Board of

County School Trustees of all the counties within whose boundaries all of the area of such county line independent school districts lay by each of such Boards of each of such counties passing its order increasing the area of such county line independent school district by incorporating therein the same portion of the area of a contiguous county line common school district, having all of its territory lying within the boundaries of such counties or a part of such counties is hereby in all things validated, as though it had been duly and legally established in the first instance.

Sec. 2. The Board of Trustees of such county line independent school district, as same existed immediately prior to having its area increased, is hereby continued in office until the expiration of the respective terms of the members thereof, and their successors shall be elected as provided by the General Laws of the State of Texas for the election of trustees in county line independent school districts incorporated for school purposes only.

Sec. 3. All acts of the Board of Trustees of any such county line independent school district in connection with the ordering of an election or elections and declaring the results thereof, and in attempting or purporting to levy taxes for and on behalf of such county line independent school district with its increased area, and all contracts and other acts of such Board of Trustees, otherwise legal, heretofore made on behalf of such district with increased territory, are hereby in all things validated.

Sec. 4. Nothing in this Act shall in anywise affect any local maintenance tax or taxes for bond purposes heretofore voted upon any part of the territory included within the bounds of such county line independent school district within the increased area. Acts 1941, 47th Leg., p. 59, ch. 42.

Filed without Governor's signature
March 14, 1941.

Effective March 17, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating certain county line independent school districts; providing for the continuance in office of the Board of Trustees of such county line independent school districts as same existed immediately prior to increasing the area of such districts, until the expiration of the respective terms of the members thereof, and providing that their successors shall be elected as provided by the General Laws for the election of trustees in county line independent school districts incorporated for school purposes only; providing for the

validating of all acts of the Board of Trustees of any such county line independent school district in connection with the ordering of an election or elections, and declaring the results thereof, and in attempting or purporting to levy taxes for and on behalf of such county line independent school district with its increased area, and providing for the validating of all contracts and other acts of such Board of Trustees, otherwise legal, heretofore made on behalf of such district with increased territory; providing that nothing in this Act shall in anywise affect any local maintenance tax or taxes for bonded purposes heretofore voted on any part of the territory included within the bounds of any such county line independent school district within the increased area; and declaring an emergency. Acts 1941, 47th Leg., p. 59, ch. 42.

Art. 2815g—27. Validating consolidation of certain common school districts, independent school districts, and county line districts

All consolidations or attempts at consolidation of one or more common school districts with one or more independent school districts and all consolidations of consolidated independent school districts with a county line common school district lying in two or more counties after an election was held and a majority of the legally qualified voters in each of such districts voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as if they had been so consolidated or established in the first instance. Provided however, the provisions of this sec-

tion shall not apply in any instance where the consolidation or consolidations are in litigation in any of the Courts of this State at the time of the passage of this Act. Acts 1941, 47th Leg., p. 866, ch. 540, § 1.

Approved and effective June 18, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating consolidation of certain common school districts, independent school districts and consolidated independ-

ent school districts and county line school districts, wherein a majority of the voters of each of the affected districts approve such a consolidation at an election held for such purpose; providing however, such validation shall not apply to districts now in litigation; repealing all laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 866, ch. 540.

Art. 2815g—28. Validation of school districts, bonds, tax levies, and acts; exceptions

Section 1. All school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, groups or annexations of whole districts or parts of districts by vote of the people residing in such districts or by action of County School Boards, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any county or by the Legislature of the State of Texas, and heretofore recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. All acts of the Boards of Trustees in such districts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school district, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, and all bond assumption tax elections following consolidation elections are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county in the creation of any district was omitted shall in nowise invalidate such district, and the fact that by inadvertence or oversight any act was omitted by the Board of Trustees of any such district in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such district, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so issued by such districts.

All acts of the County Boards of Trustees of any and all counties in rearranging, changing, or subdividing such school districts or increasing or decreasing the area thereof, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, are hereby in all things validated.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. This law shall not apply to any district which is now involved in litigation, or the validity of the organization or creation of which or consolidation or annexation of territory in or to such district is attacked in any suit or litigation filed within forty-five (45) days

after the effective date of this Act. Provided further that this Act shall not apply to any district which may have been established or consolidated, and which was later returned to its original status.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any Court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, sentence, paragraph, section, or part of this Act. Acts 1941, 47th Leg., p. 875, ch. 546.

Approved and effective June 30, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the organization and creation of all school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, whether created by General or Special Law or by County Boards of Trustees; providing this Act shall not validate the organization or creation of

any district, or consolidation or annexation of any district in or to such district where the same is now involved in litigation or where suit or litigation is filed with reference thereto within forty-five (45) days after the effective date of this Act; validating the acts of said County Boards of Trustees and Boards of Trustees of such districts; validating bond assumption elections and all bonds voted, authorized and/or now outstanding of said districts; validating all tax levies made in behalf of said districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act of the Legislature; making certain exemptions; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 875, ch. 546.

7. JUNIOR COLLEGES

[Art. 2815h. Junior college districts]

Control of college established

Sec. 4. A junior college established and maintained by an independent school district or city that has assumed control of its schools, or where the same has been organized as a junior college district under the provisions of this Act prior to October 15, 1935, as an independent entity, or may hereafter be so created, and/or wherein the boundaries of the junior college district are the same, or substantially the same, as the independent school district, shall be governed, administered, and controlled by and under the direction of the board of education of such district or city. The said board of education of such junior college district, under the provisions of this Act, shall in addition to all of the powers and duties vested in them by the terms of this Act, be furthermore vested with all the rights, powers, privileges, and duties conferred and imposed upon trustees of independent school districts by the General Laws of this State, so far as the same may be applicable thereto and not inconsistent with this Act. Provided, however, that all municipal junior colleges as provided in this Act that were organized and established prior to the year 1923, shall be governed and controlled by a separate board of trustees, and not less than twenty (20) days nor more than thirty (30) days from the effective date of this Act the board of trustees of the independent school district wherein such municipal junior college, established prior to the year 1923, is located, shall cause, and order to be held, an election of a board of trustees to consist of seven (7) resident citizens of said municipal junior college district. The order of such election shall follow that prescribed for the election of the board of trustees of the independent school district. The general laws governing the elec-

tion of trustees for independent school districts shall determine the term of office and subsequent elections of the members of said board of such municipal junior college district. It is provided, also, that the cost of said election and subsequent elections shall be borne by the said municipal junior college district. Said board of trustees shall meet not later than seven (7) days from the date of their election and organize by electing one of their members president and one of their members vice president. Thereafter said municipal junior college board of trustees shall assume full administrative responsibility for managing, governing, and controlling said municipal junior college. In all respects in which it is not in conflict with this Act, such junior college district shall be governed by the junior college law as amended by the Forty-fifth Legislature, Acts of 1937. It is further provided that no compensation shall be allowed said members for duties performed as members of said board of trustees. As amended Acts 1941, 47th Leg., p. 535, ch. 330, § 1.

Filed without the Governor's signature,
May 24, 1941.

Effective May 26, 1941.

Section 2 of the amendatory Act of
1941 declared an emergency and provided

that the Act should take effect from and
after its passage.

Validation of proceedings increasing area
of certain junior college districts, see article
2802i—11, § 4.

Art. 2815h—4. Validation of Junior College Districts and Union Junior College Districts, proceedings, bonds, etc.

Section 1. All Junior College Districts and Union Junior College Districts heretofore organized and created in any manner under the provisions of the Acts of the 41st Legislature, 1929, Page 648, Chapter 290, and under any amendment thereof,¹ are hereby validated in all respects as though they had been duly and legally established in the first instance. All proceedings and acts of the County Board of Education, all proceedings and acts of the State Board of Education, and all proceedings and acts of the Commissioners' Courts heretofore taken by such Boards and Courts in creating, or undertaking to create such Junior College Districts are likewise hereby validated in all respects as though they had been duly and legally taken in the first instance; and all acts of the trustees of such Districts are hereby validated.

All elections for the creation of such Junior College Districts, and the election of trustees thereof, and the voting of bonds therefor, heretofore held are hereby in all things validated. All bonds heretofore voted, authorized, or sold, or now outstanding of said Districts, and all bonds heretofore voted, but not yet issued, are hereby in all things validated.

Sec. 2. The trustees elected for such Junior College Districts, after taking the oath of office, shall divide themselves into three classes: Class One, consisting of two (2) members, shall serve for one (1) year; Class Two consisting of two (2) members who shall serve for two (2) years; and Class Three, consisting of the three (3) remaining members, who shall serve for three (3) years.

On the first Saturday of April of each year after such trustees first elected shall have served for a period of at least one (1) year, an election shall be held to fill the offices of the members of trustees whose terms expire that year. Such trustees so elected shall serve for a term of three (3) years.

The order for the election of trustees shall be made by the Board of Trustees at least twenty (20) days prior to the date of said election, which order shall be in conformity with the General Laws of the State relating to the election of trustees for Independent School Districts insofar as same are applicable.

The Board of Trustees of the District shall canvass the returns, and declare the result of all elections held for the election of trustees. All such elections shall be held in accordance with the laws governing the election of trustees of Independent School Districts. Vacancies shall be filled by the remaining members of the Board by appointment for the remainder of the term in which the vacancies occur.

Sec. 3. When the Assessor and Collector of county taxes is designated by the Board of Trustees of a Junior College District or a Union Junior College District to collect, or to assess and collect, the taxes for such Junior College District, he shall collect, or assess and collect, the same and receive as compensation for his services not more than one (1%) per cent of the taxes assessed for assessing same, and not more than one (1%) per cent of the taxes collected for collecting same.

Sec. 4. All laws or parts of laws, insofar as they conflict with the provisions of this Act, are hereby repealed.

Sec. 5. If any word, phrase, clause, sentence, paragraph, section, or part of this bill shall be held by any Court of competent jurisdiction to be invalid, or unconstitutional, it shall not affect any other provision of this Act.

Sec. 6. This Act shall not apply to any District, the organization or creation of which is now involved in litigation, nor shall this Act apply to or affect any litigation now pending which involves the validity of such District, or the validity of any bonds issued or undertaken to be issued by it. Acts 1941, 47th Leg., p. 6, ch. 5.

¹ Article 2815h.

Approved and effective Feb. 5, 1941.

Section 7 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to validate the organization and creation of all Junior College Districts and Union Junior College Districts, created in any manner under the provision of the Acts of the 41st Legislature, 1929, Page 648, Chapter 290, and under any amendments thereof; validating all proceedings and acts of the County Boards of Education, all acts of the State Board of Education, and all acts of the Commissioners' Courts of this State heretofore taken in creating or undertaking to create such Junior College Districts; validating all elections held for the creation of such Junior College Districts, the election of

trustees thereof, and the voting of bonds therefor; validating all proceedings and acts of boards of trustees of such Junior College Districts heretofore taken; validating all bonds voted, authorized, or sold, or now outstanding of such Junior College Districts and all bonds heretofore voted, but not yet issued; providing for the election of a board of trustees for such Junior College Districts, and providing certain powers and duties of such trustees; providing for the fee to be charged such Junior College Districts by the County Tax Assessor and Collector when such officer shall be designated to assess and collect the taxes for such Districts; repealing all laws in conflict herewith; providing a saving clause; providing this law shall not apply to any District or any bonds now in litigation; and declaring an emergency. Acts 1941, 47th Leg., p. 6, ch. 5.

Art. 2815j—1. Appropriations; regulation and allocation; eligibility

Section 1. There shall be appropriated biennially from moneys in the State Treasury not otherwise appropriated an amount sufficient to supplement local funds in the proper support, maintenance, operation and improvement of the Public Junior Colleges of Texas, which meet the standards as herein provided; and said sum shall be allocated on a basis and in a manner hereinafter provided.

Sec. 2. To be eligible for and to receive a proportionate share of this appropriation, a Public Junior College must be accredited as a first class Junior College by the State Department of Education, and the State Department of Education is hereby authorized to set up rules and provisions by which Public Junior Colleges may be inspected and accredited. And provided further that to be eligible to participate in any biennial

appropriation, each Public Junior College shall offer a minimum of twenty-four (24) semester hours of vocational and/or terminal courses. And provided further that in order to be eligible to participate in any biennial appropriation each Public Junior College shall have complied with all existing laws, rules and regulations governing the establishment and maintenance of Public Junior Colleges. It shall be mandatory that each institution participating in the funds herein provided shall collect from each pupil enrolled, matriculation and other session fees not less than the amounts provided for by law and by other state supported institutions of higher learning; as provided in Articles 2654A, 2654B and 2654C Revised Civil Statutes of Texas. Acts 1941, 47th Leg., p. 778, ch. 483.

Approved June 11, 1941.

Effective 90 days after date of adjournment.

Section 3 of the Act of 1941 made an appropriation of \$325,000, to be apportioned among the junior colleges therein named, and further provided: "Provided that each of the above Public Junior Colleges shall qualify within the requirements of this Act; and provided further that the funds here appropriated shall be disbursed to and distributed among the Public Junior Colleges which qualify to receive it on the basis of Fifty (\$50.00) Dollars per capita for each full time student per scholastic year, and providing that 'full time student' as herein used is defined as a student doing fifteen (15) semester hours of work, and that the number of full time students enrolled in any school to be benefited by this Act shall be determined by dividing the total number of semester hours of work carried by all students of the school, as of November 1st in any fiscal year, by fifteen (15)."

Section 4 declared an emergency but

such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for and regulating appropriations from moneys in the State Treasury not otherwise appropriated, to supplement local funds for the support, maintenance, operation, and improvement of the Public Junior Colleges of Texas as named in this Act; providing it shall be mandatory that each institution participating in the funds herein provided, shall collect from each pupil enrolled, matriculation and other session fees not less than the amounts provided for by law and by other state supported institutions of higher learning; as provided in Articles 2654A, 2654B and 2654C Revised Civil Statutes of Texas; providing for an annual appropriation of Three Hundred Twenty-five Thousand (\$325,000.00) Dollars for each of the fiscal years beginning September 1, 1941, and September 1, 1942, respectively, and for the allocation thereof, and declaring an emergency. Acts 1941, 47th Leg., p. 778, ch. 483.

CHAPTER FOURTEEN—SCHOLASTIC CENSUS

Art.

2816a. Supplemental scholastic census; unusual increase in population from camps, reservations or building projects [New].

Art.

2822a. Supplemental census in districts having unusual population increase because of proximity of National Defense Agencies [New].

Art. 2816a. Supplemental scholastic census; unusual increase in population from camps, reservations or building projects

Section 1. It is hereby provided that in cases of unusual increase of scholastic population of any school district caused by the location therein or adjacent thereto of camps, reservations, building or dam projects sponsored by Federal Government or State Government ownership and whose creation results in an unusual increase in scholastic population in a school district upon the certified request of the county superintendent of the county in which such an unusual increase exists, the State Superintendent of Public Instruction, at district expense, shall require a supplemental scholastic census to be taken of the district involved. In the event that the census herein authorized shows a substantial increase in scholastic population, the State Superintendent of Public Instruction may approve a supplemental census roll, adding the names of additional

eligible scholastics to the rolls of the districts. Said supplement of the scholastic census roll shall be considered a part of the original census as if it were taken in the last preceding month of March of the school year and the scholastic apportionment shall be paid in accordance with said scholastic population. Provided further that such supplemental census shall be taken not later than March 15 of any fiscal year, and shall include only such scholastics that are enrolled and are in actual attendance; provided that for the year 1940-1941 said supplemental census will be permitted until April 22, and no adjustment in scholastic apportionment in a district entitled thereto shall be in an amount more than that necessary for the additional expenditures needed to care for the needs of such districts and which shall be approved by the State Department of Education.

Sec. 2. Only one supplemental census annually in any one district shall be authorized by the State Superintendent. Acts 1941, 47th Leg., p. 152, ch. 113.

Approved and effective April 10, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for a supplemental scholastic census in school districts where there is an unusual increase in population due to location of camps, reservations, or building projects by Federal or State Governments; providing for the request by the County Superintendents for such census; directing the State Superintendent of Public Instruction to require the census and to approve a supplemental census roll of the district; providing that said supplemental roll shall be a part of the original census of the district the same as if it had been taken in March; providing

for the payment of scholastic apportionment in accordance with said supplemental scholastic census; providing that such supplemental census shall include only such scholastics that are enrolled and are in actual attendance; providing that such supplemental census shall be taken not later than March 15 of any fiscal year except 1940-1941, which date limit shall be April 22; providing that no adjustment of scholastic apportionment shall be in an amount more than that necessary to care for the needs of such district; providing for approval by the State Department of Education; providing for only one supplemental scholastic census in any one district annually; and declaring an emergency. Acts 1941, 47th Leg., p. 152, ch. 113.

Art. 2822a. Supplemental census in districts having unusual population increase because of proximity of National Defense Agencies

Section 1. It is hereby provided that in cases of an unusual increase of the scholastic population of any School District, caused by the location therein, or adjacent thereto, or whose scholastic population is materially increased by, any of the National Defense Agencies, such as army camps, naval training stations, ship yards, flying fields, munitions works, or any other agency whose purpose is to further the National Defense, or by the production of oil, gas or other natural resources necessary in the program of National Defense, and whose creation results in an unusual increase in the scholastic population of any School District, upon the certified request of the County Superintendent of the County in which such an unusual increase exists, the State Superintendent of Public Instruction shall require a supplemental scholastic census to be taken, immediately, of the District involved. In the event that the census herein authorized shows a substantial increase in the scholastic population, the State Superintendent of Public Instruction shall approve a supplemental census roll, adding the names of the additional eligible scholastics to the rolls of the District. Said supplement of the scholastic census roll shall be considered a part of the original census as if it were taken in the last preceding month of March, and the scholastic apportionment shall be paid in accordance with said scholastic population. Provided further, that such supplemental census shall be taken not later than

March 15th of any fiscal year, and no adjustment of scholastic apportionment to any District entitled thereto shall be in an amount more than that necessary for the additional expenditures needed to care for the needs of such Districts, and which shall be approved by the State Department of Education.

Sec. 2. The State Superintendent of Public Instruction is not authorized by this Act to provide for more than one supplemental scholastic census annually in any one District. Acts 1941, 47th Leg., p. 26, ch. 15.

Approved and effective Feb. 25, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for a supplemental scholastic census in School Districts where there is an unusual increase in population due to proximity of National Defense Agencies; providing for the request by County Superintendents for such census; directing the State Superintendent of Public Instruction to require the census, and to approve a supplemental census roll of the Districts; providing that said supplemental roll shall be a part of the original

census of the District the same as if it had been taken in March; providing for the payment of scholastic apportionment in accordance with said supplemental scholastic census; providing that such supplemental census shall be taken not later than March 15th of any fiscal year, and providing that no adjustment of scholastic apportionment shall be in an amount more than that necessary to care for the needs of such District; and providing for approval by the State Department of Education; providing for only one supplemental scholastic census in any one District annually; and declaring an emergency. Acts 1941, 47th Leg., p. 26, ch. 15.

CHAPTER FIFTEEN—SCHOOL FUNDS

Art.

2831a. Balances in counties of 390,000 to 500,000 [New].

Article 2823. [2725] What shall constitute school fund

Lands in Gulf of Mexico granted to Permanent Public Free School Fund, see article 5415a.

Supplemental scholastic census where

population increases from camps, reservations or building projects as affecting apportionment, see article 2816a.

Art. 2824. 5402, 4271 School lands

Transfer of care of county permanent school funds from Commissioners' Court to Board of Education in counties of 24,300 to 24,360 population

Acts 1941, 47th Leg., p. 173, ch. 126, read as follows: "The Commissioners' Court of each county having a population of not less than twenty-four thousand three hundred (24,300) nor more than twenty-four thousand three hundred sixty (24,360) according to last preceding Federal Census and having a county permanent school fund may, by an order duly entered, trans-

fer the administration, investment and care of its county permanent school fund to the County Board of Education subject to all of the provisions of the law now or hereafter existing as to the administration, investment, and care of the permanent school fund of each county; and all laws and parts of laws in conflict herewith are hereby repealed."

Filed without the Governor's signature, April 16, 1941.

Effective April 28, 1941.

Art. 2827a. State available school funds; notice to State Superintendent and State Board of Education; deposit in county depositories

State Superintendent to remit to depository banks amount of State Available

School Fund provided in county budget, see article 2700.1, § 3.

Art. 2830. To keep accounts

Supplemental scholastic census where population increases from camps, reserva-

tions or building projects as affecting apportionment, see article 2816a.

Art. 2831a. Balances in counties of 390,000 to 500,000

In all counties having a population of not less than three hundred and ninety thousand (390,000) nor more than five hundred thousand (500,000) according to the last preceding Federal Census, all balances of all school funds of the common school districts of such counties not expended for the current year, and the entire available funds arising from county permanent school funds, shall be placed in the School Equalization Fund of such counties on the order of the County Board of School Trustees. Added Acts 1941, 47th Leg., p. 62, ch. 47, § 1.

Filed without Governor's signature
March 14, 1941.

Effective March 17, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws.

Section 3 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2832a. Depository of school funds in counties having population of 16800 and not more than 17000

Pledge by depository of State General Fund Warrants as security for school district funds in lieu of bonds, see art. 2548a.

CHAPTER SIXTEEN—FREE TEXTBOOKS**1. TEXTBOOK COMMISSION****Art. 2843. Uniform system**

The Textbook Commission authorized by this Act shall have authority to select and adopt a uniform system of textbooks to be used in the public free schools of Texas, and the books so selected and adopted shall be printed in the English language, and shall include and be limited to textbooks on the following subjects: spelling, reading, English language and grammar, geography, arithmetic, physiology-hygiene, civil government, history of the United States (in which the construction placed on the Federal Constitution by the fathers of the Confederacy shall be fairly represented), history of Texas, agriculture, a system of writing books, a system of drawing books, and may also, if deemed necessary, adopt a geography of Texas and a civil government of Texas; provided that none of said books shall contain anything of a partisan or sectarian character, and that nothing in this Act shall be construed to prevent the teaching of German, Bohemian, Spanish, French, Latin, or Greek in any of the public schools.

Said Textbook Commission shall also adopt a multiple list of books for use in the high schools of the State, said multiple list including not fewer than three (3) nor more than five (5) textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year general history, ancient history, modern history, American history, Latin, Spanish, physical geography, English composition, history of American literature, history of English literature, physiology, agriculture, and civil government and for each high school branch of study any one or several of the textbooks of said multiple list adopted for that subject may be selected; provided, however, that the several textbooks do not exceed the allowable number equivalent to one textbook for and used in any high school as the textbook or in such a branch in that high school, but when such book or books is or are so chosen by local authorities from the multiple list adopted such book or

books shall be continued in that high school for the entire five (5) years of the adoption period. Provided, however, that the multiple list herein provided for shall apply to all high schools classed by the Department of Education as high schools of the first class. For use in all other high schools a uniform system of textbooks on each subject mentioned above shall be selected by the commission; provided, that in any city or independent school district having more than one high school of the first class said city or independent school district shall adopt from said multiple list for use in each of said high schools the same books and shall use said books so adopted for a period of not less than five (5) years.

Specific rules as to the manner of the selection of books by the high school shall be made by the State Textbook Commission.

The commission, as herein provided for, shall adopt textbooks in accordance with the provisions of this Act for every public free school in this State and no public free school in this State shall use any textbook unless same has been previously adopted and approved by this commission; and the commission shall prescribe rules under which all textbooks adopted and approved shall be introduced or used by or in the public schools of the State.

In the event as many as three suitable texts are not offered for adoption on any one subject, the commission may select fewer than three (3) texts.

Existing contracts shall not be affected by any adoptions made under this Act. As amended, Acts 1941, 47th Leg., p. 1388, ch. 627, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 2844a. German, Czech and French language books—Commercial arithmetic, bookkeeping and typewriting books—Band and orchestra music books—Books containing charters and documents of American Democracy

Spanish text books, selection and distribution of, see article 2911a.

CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES

1. ISSUANCE OF CERTIFICATES

Art. 2883a. Assignment, transfer or pledge of compensation of teachers or school employees; consent of school officials required; venue of suits

Section 1. Definition—Teacher and School Employee. The terms "teacher" and "school employee," within the provisions of this Act, shall be held and deemed to embrace and include any person employed by any Public School System, Independent School District or Common School District, in this State, in an executive, administrative, or clerical capacity, or as a superintendent, principal, teacher or instructor, and any person employed by a university or college, or other educational institution in an executive, administrative, or clerical capacity, or as a professor, or instructor, or in any similar capacity.

Sec. 2. An assignment, transfer, pledge or similar instrument executed by any teacher or school employee wherein any salary or wages or any interest therein or part thereof then due or which may become due to such teacher or school employee under an existing contract of employ-

ment is assigned, transferred or pledged as security for indebtedness, shall be valid and enforceable only in the event that prior to or at the time of the execution, delivery or acceptance of such assignment, written consent to or approval of such assignment shall have been obtained from the employing authority or officer herein designated as follows: (a) If the teacher or school employee executing such salary assignment shall be employed by a common school district, the consent to or approval of such assignment shall be obtained either from the Secretary or Chairman of the Board of Trustees for such common school district, and also from the County Superintendent of the county in which such school district is located. (b) If the teacher or school employee executing such assignment shall be employed by an independent school district, the consent to or approval of such assignment shall be obtained either from the President or Secretary of the Board of Trustees, or from the superintendent or the business manager of said independent school district. (c) If the teacher or school employee executing such assignment shall be employed by a college, university or other educational institution, the consent to or approval of such assignment shall be obtained from the person or officer thereof having the duty or responsibility for the payment of salaries of its teachers and employees. Any such assignment, transfer or pledge shall be in writing and acknowledged in the same manner as required for the acknowledgement of a deed or other instrument for registration, and if such instrument be executed by a married person, it shall also be executed and acknowledged by his or her spouse in such manner; but it shall not be necessary for the school official or officer giving written consent to or approval of such assignment as hereinbefore provided to acknowledge the same. Such assignment, transfer or pledge shall be valid only to the extent that the indebtedness secured thereby is a valid and enforceable obligation. Any school district, college, university or other educational institution, county superintendent or any disbursing agent therefor shall be authorized to, and shall honor such assignment without being subject to any liability therefor to the teacher or school employee so executing such assignment; and any sum paid to any assignee in accordance with the terms of any such assignment shall be deemed to be payment to or for the account of such teacher or school employee; but such assignment shall be valid and enforceable only to the extent of any salary which may be due or may become due and earned by such teacher or school employee during the continuation of his or her employment by such school district, college, university or educational institution.

Sec. 3. The venue of any suit against a county superintendent, common school district, independent school district, or the officials thereof or against any university, college or other educational institution brought for the purpose of enforcing or foreclosing any assignment of salary given under the provisions hereof, shall be in the county where the school or educational institution employing such teacher or school employee is located.

Sec. 4. Nothing in this Act shall in any manner affect or repeal any part of Senate Bill No. 402, Acts of the Regular Session of the Thirty-eighth Legislature.¹ As amended Acts 1941, 47th Leg., p. 6, ch. 4, § 1; Acts 1941, 47th Leg., p. 598, ch. 367, § 1.

¹ Acts 1923, 38th Leg., Spec.L., p. 317, ch. 91.

Approved and effective May 22, 1941.
Acts 1941, 47th Leg., p. 6, ch. 4, § 1, merely amended section 2a of Acts 1939, 46th Leg., p. 282, to read as now set out in section 4 as renumbered by section of the later amendment approved May 22, 1941.

Section 2 of the amendatory Acts of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

<p>Art. 2908a. Oath of allegiance by teachers, instructors, and other employees; exemptions [New].</p>	<p>Art. 2911a. Spanish in elementary grades, teaching of; text books [New].</p>
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Art. 2908a. Oath of allegiance by teachers, instructors, and other employees; exemptions

Section 1. That on and after the date this Act becomes effective, no public funds may be paid to any person as a teacher, instructor, visiting instructor, or other employee in, for or connected with any tax-supported school, college, university or other tax-supported institution of learning in this State, unless and until such person shall have taken the oath of office required to be taken by members of the Legislature and all other officers, as provided in Article XVI, Section 1, as amended by amendment adopted November 8, 1939.

Sec. 2. Exempting foreign visiting instructors, refugees and political refugees from conquered countries from the provisions set out in Section 1 of this Act, and providing that such foreign visiting instructors, refugees and political refugees from conquered countries shall file an affidavit, on form to be prescribed by the Attorney General of the State of Texas, stating, among other things, that they are not members of the Communist, Fascist or Nazi Parties, nor members of any Bund, or any affiliated organization, and further stating that they will not engage in any un-American activities, nor teach any doctrines contrary to the Constitution and Laws of the United States of America or of the State of Texas.

Sec. 3. That any teacher or instructor of any tax-supported school, college, university or other institution of learning in this State who shall have been found guilty of openly advocating doctrines which seek to undermine or overthrow by force or violence the republican and democratic forms of government in the United States, or which in any way seek to establish a government that does not rest upon the fundamental principle of the consent of the governed, upon and after a full hearing by the employing or appointing authority of such teacher or instructor, shall be dismissed from such service. Acts 1941, 47th Leg., p. 1355, ch. 617.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to provide for oath of allegiance for certain persons and to provide further safeguards for public educational funds, and declaring an emergency. Acts 1941, 47th Leg., p. 1355, ch. 617.

Art. 2911a. Spanish in elementary grades, teaching of; text books

Section 1. The Board of Trustees of Independent and Common School Districts in this State shall have the power to designate certain grades of the elementary schools in their respective districts and to designate certain grades or sections of grades above the second grade in such schools in which the teaching of the Spanish language may be a part of the curriculum.

Sec. 2. The State Board of Education is hereby authorized and empowered and directed to purchase text books for the teaching of the Spanish language in such grades or sections of grades so designated by said Board of Trustees, and to distribute such books without cost to the pupils.

Sec. 3. Nothing in this Act shall be construed to restrict in any wise the teaching of the Spanish or other modern language in the public high schools of this State or the supplying of free text books therefor, as now authorized by law. The manner and condition of selecting, purchasing and distributing the text books authorized by this Act shall be the same as now provided with respect to free text books generally by Title 49, Chapter 16 of the 1925 Revised Civil Statutes of the State of Texas,¹ as amended to the effective date of this Act. Acts 1941, 47th Leg., p. 125, ch. 98.

¹ Articles 2839-2861.

Approved and effective April 4, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act giving to Boards of Trustees of Independent and Common School Districts in this State the power to designate certain grades or sections of grades above the second grade in certain elementary schools in their respective School Districts in which the teaching of the Spanish lan-

guage may be a part of the curriculum; authorizing, empowering and directing the State Board of Education to purchase text books for the teaching of the Spanish language in such grades or sections of grades and in such schools so designated; providing that nothing in this Act shall restrict the teaching of Spanish or other modern language or the furnishing of free text books therefor as now authorized by law; providing the manner of selecting, purchasing and distributing such books; and declaring an emergency. Acts 1941, 47th Leg., p. 125, ch. 98.

CHAPTER NINETEEN A--RURAL HIGH SCHOOLS

Art.

2922a—3. Validation of consolidated rural high school districts in counties of 31,130 to 31,145 population and 250 to 700 scholastics [New].

Art. 2922a—3. Validation of consolidated rural high school districts in counties of 31,130 to 31,145 population and 250 to 700 scholastics

From and after the effective date of this Act, in all consolidated rural high school districts in this State located in counties having a population of not less than thirty-one thousand, one hundred and thirty (31,130) and not more than thirty-one thousand, one hundred and forty-five (31,145) inhabitants, according to the last preceding Federal Census, and where such consolidated rural high school districts, located in such counties, have a scholastic population of not less than two hundred and fifty (250) and not more than seven hundred (700) scholastics, according to the last preceding scholastic enumeration, in such district, heretofore created or attempted to be created by an act of the County Board of Trustees in creating or attempting to create consolidated rural high school districts out of a district or districts that had been theretofore a consolidated common school district or districts, are hereby validated in all respects as though they had been duly established in the first instance; all acts of the Board of Trustees of such district in ordering or holding the elections and declaring the results thereof, and levying taxes therefor, all bonds issued and outstanding and taxes levied therefor, and all tax assessments, assessment rolls, and tax rolls of such district, and all bonds heretofore authorized and voted but not issued by such district are hereby validated, ratified, approved, and confirmed; providing that this Act shall have no application to any such districts,

bonds, tax levies, and tax rolls which are now involved in tax litigation. Acts 1941, 47th Leg., p. 1321, ch. 594, § 1.

Filed without the Governor's signature, July 3, 1941.

Effective July 5, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act validating all consolidated rural high school districts having a scholastic population of not less than two hundred and fifty (250) and not more than seven hundred (700), according to the last preceding scholastic enumeration, and located in counties having a population of not less

than thirty-one thousand, one hundred and thirty (31,130) and not more than thirty-one thousand, one hundred and forty-five (31,145) inhabitants, according to the last preceding Federal Census, created by an act of the County Board of Trustees out of a district or districts which had theretofore been a consolidated school district or districts; validating all elections, the levying of taxes, bond issues and taxes levied therefor, and all bonds voted but not issued; providing that this Act shall not apply to any district now involved in tax litigation; and declaring an emergency. Acts 1941, 47th Leg., p. 1321, ch. 594.

CHAPTER TWENTY—TEACHERS' RETIREMENT [NEW]

Art. 2922—1. Teachers' Retirement System—Definitions

Section 1. The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Retirement System" shall mean the Teachers Retirement System of Texas as defined in Section 2 of this Act.

(2) "Public school" shall mean any educational organization supported wholly or partly by the State under the authority and supervision of a legally constituted board or agency having authority and responsibility for any function of public education.

(3) "Teacher" shall mean a person employed on a full time, regular salary basis by boards of common school districts, boards of independent school districts, county school boards, Retirement Board of Trustees, State Board of Education and State Department of Education, boards of regents of colleges and universities, and any other legally constituted board or agency of an educational institution or organization supported wholly or partly by the State. In all cases of doubt, the Retirement Board of Trustees, hereinafter defined, shall determine whether a person is a teacher as defined in this Act. A teacher shall mean a person rendering service to organized public education in professional and business administration and supervision and in instruction, in public schools as defined in Subsection (2) of this Section.

(4) "Taught" shall mean all regular services contributing directly and indirectly to the instruction offered by and through the teachers as defined in Subsection (3) of this Section.

(5) "Employer" shall mean the State of Texas and any of its designated agents or agencies with responsibility and authority for public education, such as the common and independent school boards, the boards of regents of State colleges and universities, the county school boards, or any other agency of and within the State by which a person may be employed for service in public education.

(6) "Member" shall mean any teacher included in the membership of the system as provided in Section 3 of this Act.

(7) "State Board of Trustees" shall mean the Board provided for in Section 6 of this Act to administer the Retirement System.

(8) "Service" shall mean service as a teacher as described in Subsection (3) of this Section.

(9) "Prior service" shall mean service rendered prior to the date of establishment of the Retirement System.

(10) "Membership service" shall mean service as a teacher rendered while a member of the Retirement System.

(11) "Creditable service" shall mean "prior service" plus "membership service" for which credit is allowable as provided in Section 4 of this Act.

(12) "Beneficiary" shall mean any person in receipt of an annuity, a retirement allowance, or other benefit as provided by this Act.

(13) "Regular interest" shall mean interest at the rate of three and one-half (3 1/2) per centum per annum, compounded annually.

(14) "Current interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on August 31st of such year before the transfer of interest to other funds, less an amount equal to three and one-half (3 1/2) per centum of the sum of the mean amount in the Membership Annuity Reserve Fund during such year, and the mean amount in the Prior-Service Annuity Reserve Fund during such year, by (2) an amount equal to the amount in the State Membership Accumulation Fund at the beginning of such year plus the amount in the Permanent Retirement Fund at the beginning of such year and plus the sum of the accumulated contributions in the Teacher Saving Fund at the beginning of such year to the credit of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than three and one-half (3 1/2) per cent.

(15) "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a member, and credited to his individual account in the Teacher Saving Fund, together with all current interest credits thereto, as provided in Section 8 of this Act.

(16) "Earnable compensation" shall mean the full rate of the compensation that would be payable to a teacher if he worked the full normal working time. In cases where compensation includes maintenance, the State Board of Trustees shall fix the value of that part of the compensation not paid in money.

(17) "Average prior-service compensation" shall mean the average annual compensation of a member during the ten (10) years immediately preceding the enactment of this law, or if he had less than ten (10) years of such service, then his average compensation shall be computed for his total years of such prior service, but in computing the average, no salary for any one year shall be more than Three Thousand Dollars (\$3,000).

(18) "Membership annuity" shall mean payments for life actuarially determined and derived from reserve funds contributed by a member and an equal amount of reserve funds contributed by the State. All membership annuities shall be payable in equal monthly installments.

(19) "Prior-service annuity" shall mean payment each year for life of one per centum of a member's average prior-service compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior-service certificate; provided that the maximum number of years of prior service to be allowed shall be thirty-six (36) years, and in computing his average prior-service compensation, the maximum prior-service salary shall be Three Thousand Dollars (\$3,000). All prior-service annuities shall be payable in equal monthly installments.

(20) "Service retirement allowance" shall mean a membership annuity and a prior-service annuity, or any optional benefits payable in lieu thereof.

(21) "Disability retirement allowance" shall mean a membership annuity and fifty (50) per centum of a prior-service annuity.

(22) "Retirement" shall mean withdrawal from service with a retirement allowance granted under the provisions of this Act.

(23) "Service retirement" shall mean the retirement of a member from service with a service retirement allowance at any time after twenty (20) years of creditable service in Texas and after attaining sixty (60) years of age.

(24) "Disability Retirement" shall mean withdrawal from service on a disability allowance any time after twenty (20) years of creditable service in Texas and before attaining sixty (60) years of age.

(25) "Membership annuity reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the State Board of Trustees with regular interest, of all payments to be made on account of any membership annuity or benefit in lieu thereof, granted to a member under the provisions of this Act.

(26) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the State Board of Trustees, and regular interest.

(27) "School year" shall mean the year beginning on or about September 1st and ending on or about August 31st. As amended Acts 1941, 47th Leg., p. 610, ch. 376, § 1.

Approved and effective May 26, 1941.

the Act should take effect from and after its passage.

Section 6 of amendatory Act of 1941 declared an emergency and provided that

Benefits

Sec. 5.

1. Service Retirement Benefits.

Any member may retire upon written application to the State Board of Trustees. Retirement shall be effective as of the end of the school year then current, provided that the said member at the time so specified for his retirement shall have attained the age of sixty (60) years and shall have completed twenty (20) or more years of creditable service, and provided further that no retirement shall be effective prior to August 31, 1941. Any member in service who has attained the age of seventy (70) years shall be retired forthwith, provided that with the approval of his employer he may remain in service.

2. Allowance for Service Retirement.

Upon retirement for service a member shall receive a service retirement allowance consisting of a membership annuity, which shall be the actuarial equivalent of his membership annuity reserve, and a prior-service annuity to which his creditable service and membership in the Teacher Retirement System entitles him under the provisions of this Act.

(a) His membership annuity reserve shall be derived from:

(1) His accumulated contributions credited to his account in the Teacher Saving Fund at the time of retirement; and

(2) An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Subsection (1) of Paragraph (a) of this Subsection.

(b) If he has a prior-service certificate in full force and effect, the prior-service annuity shall be one per centum of his average prior-service

compensation, as defined in this Act, multiplied by the number of years of Texas service certified in his prior-service certificate; provided that the maximum number of years of prior-service to be allowed shall be thirty-six (36) years and that in computing his average prior-service compensation, the maximum prior-service salary shall be Three Thousand Dollars (\$3,000); provided that the State Board of Trustees shall have an actuarial and statistical study made at least once every five (5) years showing annual trends. Upon the recommendation of the actuary, the State Board of Trustees shall have the power to reduce proportionately all payments for prior-service annuities at any time and for such period of time as is necessary so that the payments to beneficiaries for prior-service annuities in any biennium shall not exceed the available assets for payment of prior-service annuities in such biennium. Available assets shall mean the amount of assets in the Prior-Service Annuity Reserve Fund at the beginning of any biennium plus all payments calculated to be made to the Prior-Service Annuity Reserve Fund during such biennium.

(c) It is expressly provided that the prior-service compensation herein provided for shall be a mutual agreement on the part of the State of Texas and the teacher-member of the Retirement System, and in no event shall the failure of the State Board of Trustees to make adjustments for which total funds are not available for payment of prior-service benefits be held as a liability against the State of Texas. It is further expressly provided that there shall be no claim for payments under prior-service annuities for any period of time prior to September 1, 1941.

(d) It is further provided that any funds remaining on hand in the Prior-Service Annuity Reserve Fund at the end of each five-year period based upon the actuarial and statistical study herein provided for, and which shall be in excess of the reserve necessary to meet all future payments for full prior-service annuities to beneficiaries, shall revert to the General Treasury of the State of Texas as of August 31st of said year.

3. Disability Retirement Benefits.

Upon the application of a member or of his employer or his legal representative acting in his behalf, any member who has had twenty (20) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

4. Allowance on Disability Retirement.

Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty (60) years; otherwise, he shall receive a disability retirement allowance consisting of a membership annuity, which shall be the actuarial equivalent of his membership annuity reserve, and a prior-service annuity to which his creditable service and membership in the Teacher Retirement System entitles him under the provisions of this Act.

(a) His membership annuity reserve shall be derived from:

(1) His accumulated contributions credited to his account in the Teacher Saving Fund at the time of retirement; and

(2) An additional sum from the State Membership Accumulation Fund equal to the accumulated contributions provided by the member in Subsection (1) of Paragraph (a) of this Subsection.

(b) If he has a prior-service certificate in full force and effect, he shall receive a prior-service annuity equal to fifty (50) per centum of the prior-service annuity provided in Paragraph (b), Subsection (2) of Section 5 of this Act.

5. Beneficiaries Retired on Account of Disability.

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the State Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

(a) Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disability beneficiary is engaged in or is able to engage in a gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his allowance shall be discontinued or reduced to an amount by which the amount of the last year's salary of the beneficiary, as a teacher, exceeds his present earning capacity. Should his earning capacity be later changed, the amount of his allowance may be further modified; provided, that the revised allowance shall not exceed the amount of the allowance originally granted, nor shall it exceed an amount which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

(b) Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and any reserves on his membership annuity at that time in the Membership Annuity Reserve Fund shall be transferred to the Teacher Saving Fund and to the State Membership Accumulation Fund, respectively, in proportion to the original sum transferred to the Membership Annuity Reserve Fund at retirement. Upon restoration to membership, any prior-service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. No teacher eligible to retire for service at sixty (60) years of age shall be allowed to retire on a disability allowance. Should a disability beneficiary die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of disability retirement exceeds the membership service annuity payments received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Membership Annuity Reserve Fund to such beneficiary if living; otherwise such amount shall be

paid as provided by the laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise.

6. Return of Accumulated Contributions.

Should a member cease to be a teacher except by death or retirement under the provisions of this Act, he shall be paid in full the amount of the accumulated contributions standing to the credit of his individual account in the Teacher Saving Fund. Should a member die before retirement, the amount of his accumulated contributions standing to the credit of his individual account shall be paid as provided by the laws of descent and distribution of Texas unless he has directed the account to be paid otherwise. Seven (7) years after such cessation of service, if no previous demand has been made, any accumulated contributions of a contributor shall be returned to him or to his heirs. If the contributor or his heirs cannot then be found, his accumulated contributions shall be forfeited to the Retirement System and credited to the Permanent Retirement Fund.

7. Optional Allowances for Service Retirement.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his membership annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his membership annuity in a reduced membership annuity payable throughout life with the provision that:

Option (1). Upon his death, his reduced membership annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2). Upon his death, one-half of his reduced membership annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (3). Some other benefit or benefits shall be paid either to the member, or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced membership annuity, shall be certified by the actuary to be of equivalent actuarial value to his membership annuity, and approved by the State Board of Trustees.

With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his prior-service annuity in an annuity payable throughout life or he may elect to receive the actuarial equivalent at that time, of his prior-service annuity in a reduced prior-service annuity payable as provided in Option (1), (2), or (3) above, provided that all payments under all prior-service annuities are subject to adjustment by the State Board of Trustees as provided in Section 5, Subsection 2, Paragraph (b) of this Act; provided further, that the same option must be selected by a member for the payment of his prior-service annuity as is selected by the member for the payment of his membership service annuity. As amended Acts 1941, 47th Leg., p. 610, ch. 376, § 2.

Administration**Sec. 6. State Board of Trustees.**

(1) The general administration and responsibility for the proper operation of the Retirement System and for making effective the provisions of the Act are hereby vested in a State Board of Trustees which shall be organized immediately after a majority of the Trustees provided for in this Section shall have qualified and taken the oath of office.

(2) The Board shall consist of six (6) trustees, as follows:

(a) The State Life Insurance Commissioner, ex officio.

(b) The Chairman of the State Board of Control of Texas, ex officio.

(c) A person selected by the State Board of Education for a term of six (6) years.

(d) Three (3) of the trustees shall be members of the Retirement System and shall be nominated by the members of the Retirement System for a term of six (6) years each, according to such rules and regulations as the State Board of Trustees shall adopt to govern such nominations, provided that the first three (3) teachers to serve as members of the State Board of Trustees shall be appointed by the Governor from a list of seven (7) teachers nominated by the Executive Committee of the Texas State Teachers Association. The terms of office of the first three (3) teacher-trustees shall begin immediately after they have qualified and taken the oath of office. They shall draw for terms of two (2), four (4), and six (6) years, which shall expire August 31, 1939, and August 31, 1941, and August 31, 1943, respectively. Thereafter, the State Board of Trustees shall provide for the nomination of three (3) teacher-members biennially by popular election of the members of the Retirement System, from which the Governor shall appoint one member to the State Board of Trustees; said member shall be subject to confirmation by two-thirds vote of the State Senate. The members so appointed shall serve for terms of six (6) years, or until their successors are qualified. It is provided, however, the re-enactment of this Section shall not affect the status or terms of office of the present members of said Board.

(3) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(4) The trustees shall serve without compensation, but they shall be reimbursed from the Expense Fund for all necessary expenses that they may incur through service on the Board.

(5) Each trustee shall, within ten (10) days after his appointment, in addition to the constitutional oath, subscribe to the following oath of office: "I do solemnly swear that I will, to the best of my ability, discharge the duties of a trustee of the Teacher Retirement System and will diligently and honestly administer the affairs of the Board of Trustees of said Retirement System and that I will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to said Retirement System." This oath shall be subscribed to by members making it before any officer qualified to administer oaths in Texas, and duly filed in the office of the Secretary of State.

(6) Each trustee shall be entitled to one vote in the Board. A majority of the State Board of Trustees shall constitute a quorum and a majority vote of those present shall be necessary for a decision by the trustees at any meeting of said Board.

(7) Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for eligibili-

ty of membership and for the administration of the funds created by this Act and for the transaction of its business.

(8) The State Board of Trustees shall elect from its membership a Chairman and shall by a majority vote of all its members appoint an Executive Secretary who shall not be one of its members. Provided that the Executive Secretary appointed under the provisions of this Act shall be confirmed by a two-thirds vote of the Senate present, and provided further that said Executive Secretary shall have been a citizen of Texas three (3) years immediately preceding his appointment. He shall recommend and nominate to the State Board of Trustees such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the State Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the State Board of Trustees shall approve, provided that in no case shall they be greater than that paid for like or similar service of the State of Texas.

(9) The State Board of Trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the Retirement System and for checking the expenses of the System.

(10) The State Board of Trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding school year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System by means of an actuarial valuation of the assets and liabilities of the Retirement System.

Legal Adviser.

(11) The Attorney General of the State of Texas shall be the legal adviser of the State Board of Trustees, and shall represent it in all litigations.

Medical Board.

(12) The State Board of Trustees shall designate a Medical Board to be composed of three (3) physicians not eligible to participate in the Retirement System. The physicians so appointed by the State Board of Trustees shall be legally qualified to practice medicine in Texas and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the State Board of Trustees its conclusion and recommendation upon all the matters referred to it.

Duties of Actuary.

(13) The State Board of Trustees shall designate an Actuary who shall be the technical adviser of the State Board of Trustees on matters regarding the operation of the funds created by the provisions of this Act, and shall perform such other duties as are required in connection therewith.

(14) Immediately after the establishment of the Retirement System, the Actuary shall make such investigation of the mortality, service, and compensation experience of the members of the System as he shall recommend and the State Board of Trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the

State Board of Trustees such tables and such rates as are required. The State Board of Trustees shall adopt tables and certify rates, and as soon as practicable thereafter, the Actuary shall make a valuation based on such tables and rates, of the assets and liabilities of the funds created by this Act.

(15) In the year 1938, and at least once in each five-year period thereafter, the Actuary shall make, under the direction of the Board, an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and shall make a valuation of the assets and liabilities of the funds of the System, and taking into account the result of such investigation and valuation, the State Board of Trustees shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary.

(16) On the basis of such tables as the State Board of Trustees shall adopt, the Actuary shall make an annual valuation of the assets and liabilities of the funds of the System created by this Act. As amended Acts 1941, 47th Leg., p. 610, ch. 376, § 3.

Management of funds

Sec. 7. (1) The State Board of Trustees shall be the trustees of the several funds as herein created by this Act, and shall have full power to invest and reinvest such funds subject to the following limitations and restrictions: All retirement funds, as are received by the Treasury of the State of Texas from contributions of teachers and employers as herein provided, may be invested only in bonds of the United States, the State of Texas, or counties, or cities, or school districts of this State, wherein said counties, or cities, or school districts have not defaulted in principal or interest on bonds within a period of ten (10) years, or in bonds issued by any agency of the United States Government, the payment of the principal and interest on which is guaranteed by the United States; and in interest-bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session; provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amounts that may become due each year as provided in this Act. The State Board of Trustees shall have full power by proper resolution to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds, provided that any money on hand shall be subject to the State Depository Laws of Texas.

(2) The State Board of Trustees annually on August 31st shall allow regular interest on the mean amount in the Membership Annuity Reserve Fund for the year then ending and shall allow regular interest on the mean amount in the Prior-Service Annuity Reserve Fund for the year then ending and shall allow current interest as defined in Section 1, Subsection (14) of this Act on the amount in the State Membership Accumulation Fund at the beginning of such year and on the amount in the Permanent Retirement Fund at the beginning of such year and on an amount in the Teacher Saving Fund equal to the sum of the accumulated contributions standing to the credit at the beginning of such year of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made. The amounts so allowed shall be due and payable to said funds and shall be credited thereto by the State Board

of Trustees on August 31st of each year from the moneys of the Retirement System held in the Interest Fund, provided that current interest shall not be a rate greater than three and one-half (3 1/2) per cent per annum and that any excess earnings over such amount required shall be paid to the Interest Reserve Account of the Permanent Retirement Fund.

(3) The Treasurer of the State of Texas shall be the custodian of all bonds, securities, and funds. All payments from said funds shall be made by him on warrants drawn by the State Comptroller of Public Accounts supported only upon vouchers signed by the Secretary of the Retirement System and the Chairman of the State Board of Trustees. A duly attested copy of a resolution of the State Board of Trustees designating such persons shall be filed with said Comptroller as his authority for issuing such warrants.

(4) For the purpose of meeting disbursements for annuities and other payments there may be kept available cash, not exceeding ten (10) per centum of the total amount in the several funds of the Retirement System, on deposit with the State Treasurer.

(5) No trustee and no employee of the State Board of Trustees shall have any direct or indirect interest in the gains or profits of any investment made by the State Board of Trustees, nor as such receive any pay or emolument for his service other than his designated salary and authorized expenses, except such interest as such person or persons may have in the retirement funds as a member in the Retirement System. As amended Acts 1941, 47th Leg., p. 610, ch. 376, § 4.

Method of financing

Sec. 8. The amount contributed by each teacher to the Retirement System shall be five (5) per centum of the regular annual compensation paid each member, the amount not to exceed One Hundred and Eighty Dollars (\$180) per annum. After such time as the State shall have contributed to the Retirement System a sum equivalent to the sum of all amounts which have then been contributed by the members of the Retirement System, the amount contributed by the State of Texas to the Retirement System thereafter shall not exceed during any one year five (5) per centum of salaries of all members, disregarding salaries in amounts in excess of Three Thousand, Six Hundred Dollars (\$3,600), provided the total amount contributed by the State during any one (1) year shall at least equal the total amount contributed during the same year by all members of the Retirement System.

All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one (1) of seven (7) funds, namely, the Teacher Saving Fund, the State Membership Accumulation Fund, the Membership Annuity Reserve Fund, the Prior-Service Annuity Reserve Fund, the Interest Fund, the Permanent Retirement Fund, and the Expense Fund.

1. The Teacher Saving Fund.

(a) The Teacher Saving Fund shall be a fund in which shall be accumulated regular five (5) per centum contributions from the compensation of members, including current interest earnings. Contributions to and payments from the Teacher Saving Fund shall be made as follows:

(b) Each employer shall cause to be deducted from the salary of each member on each and every pay roll of such employer for each and every pay roll period, five (5) per centum of his earnable compensation, provided that the sum of the deductions made for a member shall not

exceed One Hundred and Eighty Dollars (\$180) during any one (1) year. Deductions shall begin with the first pay roll period of the school year 1937-38. In determining the amount earnable by a member in a pay roll period, the State Board of Trustees may consider the rate of annual compensation payable to such member on the first day of the pay roll period as continuing throughout such pay roll period, and it may omit deduction from compensation for any period less than a full pay roll period if a teacher was not a member on the first day of the pay roll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of one (1) per centum of the annual compensation upon the basis of which such deduction is to be made.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The employer shall certify to the State Board of Trustees on each and every pay roll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Teacher Saving Fund, and shall be credited, to the individual account of the member from whose compensation said deduction was made.

(d) Current Interest on members' contributions shall be credited annually as of August 31st and shall be allowed on the amount of the accumulated contributions standing to the credit of the member at the beginning of the year and shall not be allowed for parts of a year. Following the termination of membership in the Retirement System for those members who have been absent from service for five (5) years in any period of six (6) consecutive years, the Teacher Saving Fund account of such members shall be closed and warrants covering the total accumulated contributions sent to them upon the filing of formal application. Until the time of payment of such accumulated contributions, said teacher shall receive no interest on the amount due him under this subsection, and the amount shall be held in a noninterest-bearing account to be set up for such purpose.

(e) Upon the retirement of a member, his accumulated contributions shall be transferred from the Teacher Saving Fund to the Membership Annuity Reserve Fund.

2. State Membership Accumulation Fund.

The State Membership Accumulation Fund shall be the fund in which shall be accumulated all contributions made to the Teacher Retirement System by the State of Texas for the purpose of providing upon the retirement of each member an amount equal to such member's accumulated contributions; and from which shall be transferred to the Membership Annuity Reserve Fund at the retirement of a member an amount equal to the accumulated contributions of the member. Contributions to and payments from this fund shall be made as follows:

(a) On the basis of such mortality and other tables as the State Board of Trustees shall adopt, the Actuary shall determine the annual amount required to be paid into the State Membership Accumulation Fund in order to accumulate by or before August 31, 1966, a sufficient sum to meet all present and prospective liabilities of this Fund at the

termination of said period, and to provide the amount required according to this Act to be transferred from this Fund into the Membership Annuity Reserve Fund during such period. 'Present and prospective liabilities' as used herein shall mean at any time an amount equal to that amount in the Teacher Saving Fund at that time which will eventually be transferred to the Membership Annuity Reserve Fund, according to calculations made by the Actuary and approved by the State Board of Trustees on the basis of the mortality and other tables adopted by the State Board of Trustees. The State Board of Trustees shall certify annually to the Comptroller of Public Accounts and to the State Treasurer the amount so ascertained by the Actuary, and such amount shall be paid each year in equal monthly installments in the manner hereinafter provided into the State Membership Accumulation Fund by the Comptroller from the funds appropriated as contributions to the Teacher Retirement System by the State of Texas. If the investigation and valuation as herein provided to be made each five (5) years shall cause a revision in the amount to be paid into this Fund annually in order to provide the required reserves by or before August 31, 1966, as determined by the State Board of Trustees, the revised amount shall be certified to the Comptroller annually, and the revised amount shall thereafter be paid into the State Membership Accumulation Fund each year.

(b) When the amount in the State Membership Accumulation Fund shall become sufficient to meet the present and prospective liabilities of this Fund, the State of Texas shall thereafter pay each year in equal monthly installments into the State Membership Accumulation Fund an amount equal to a per centum of the contributions of the members during such year which shall be calculated by the Actuary and certified to the Comptroller by the State Board of Trustees as being the necessary and required per centum to maintain a reserve in this Fund equal to present and prospective liabilities of the Fund. The rate per centum so certified shall continue in force until modified by the Board of Trustees on the basis of a new investigation and valuation as provided for herein to be made at the end of each five-year period.

(c) Upon the retirement of a member, an amount equal to his accumulated contributions in the Teacher Saving Fund shall be transferred from the State Membership Accumulation Fund into the Membership Annuity Reserve Fund as a reserve for his Membership Annuity.

3. Membership Annuity Reserve Fund.

The Membership Annuity Reserve Fund shall be the fund in which shall be held all reserves for membership annuities granted and in force and from which shall be paid all membership annuities and all benefits in lieu of membership annuities, payable as provided in this Act. This Fund shall be made up of transfers as follows:

(a) At the time of service or disability retirement the accumulated contributions of a retiring teacher shall be transferred from the Teacher Saving Fund to the Membership Annuity Reserve Fund as reserves for the membership annuity purchased by his contributions.

(b) An amount equal to the accumulated contributions of each retiring teacher shall be transferred, upon service or disability retirement, from the State Membership Accumulation Fund as reserves for an additional membership annuity equal to the membership annuity purchased by the teacher.

Transfers and payments from the Membership Annuity Reserve Fund shall be made as provided in Section 5, Subsection (5) Paragraph (b) of this Act, upon the death, restoration to active service or removal from the disability list of a beneficiary retired on account of disability.

4. Prior-Service Annuity Reserve Fund.

The Prior-Service Annuity Reserve Fund shall be the fund in which shall be accumulated all contributions made to the Retirement System by the State of Texas for the purpose of providing the amounts required for payment of prior-service annuities; and from which prior-service annuities shall be paid to beneficiaries as herein provided. Contributions to and payments from this fund shall be made as follows:

(a) All moneys appropriated by the State of Texas as contributions to the Teacher Retirement System each year and which will not be paid into the State Membership Accumulation Fund as elsewhere herein provided shall be paid into the Prior-Service Annuity Reserve Fund in the manner hereinafter provided.

(b) All prior-service annuity payments to beneficiaries, as provided in this Act to be paid after September 1, 1941, shall be paid from this fund. The State Board of Trustees shall have the power to reduce proportionately all payments for prior-service annuities at any time and for such period of time as is necessary so that the payments to beneficiaries for prior-service annuities in any biennium shall not exceed the available assets for payment of prior-service annuities in such biennium. It is further provided that any funds on hand in the Prior-Service Annuity Reserve Fund at the end of any five-year period in excess of the reserve necessary to meet all future payments in full to beneficiaries for prior-service annuities, on the basis of the actuarial and statistical study herein provided for, shall revert to the General Treasury of the State of Texas as of August 31st of the year ending said period.

5. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds with the exception of the Expense Fund. All income, interest, and dividends derived from the deposits and investments authorized by this Act shall be paid into the Interest Fund. Once each year on August 31st, interest shall be allowed and transferred to the other funds, respectively, except the Expense Fund. The State Board of Trustees shall annually transfer to the credit of the interest reserve account of the Permanent Retirement Fund all excess earnings after all interest-bearing funds have been duly credited with interest for the year in the manner provided in this Act.

6. Permanent Retirement Fund.

The Permanent Retirement Fund shall be a fund in which shall be accumulated all gifts, awards, funds, and assets accruing to the Retirement System not specifically required by other funds created by this Act, and to provide a contingent fund out of which special requirements of other funds may be covered. The principal of this Fund is hereby held and dedicated as a perpetual endowment of the Retirement System and shall not be diverted or appropriated to any other cause or purpose. All current interest credited to this Fund and excess interest earnings transferred to this Fund shall be held as an interest reserve account from which the State Board of Trustees shall transfer annually to the Expense Fund such amount as is required to provide for the administration and maintenance of the Retirement System, provided the funds are available.

7. Expense Fund.

The Expense Fund shall be the fund from which the expenses of administration and maintenance of the Retirement System shall be paid. Transfers to and payments from this Fund shall be made as follows:

(a) The Executive Secretary shall prepare annually an itemized budget showing the amount required to defray the expenses for the en-

suing fiscal year and shall submit the report to the State Board of Trustees for its review and adoption.

(b) Each member shall pay with the first payment to the Teacher Saving Fund each year, and in addition thereto, a sum of One Dollar (\$1), which amount shall be credited to the Expense Fund, said payments for the Expense Fund shall be made to the State Board of Trustees in the same way as payments to the Teacher Saving Fund shall be made, as provided for in this Act.

(c) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of One Dollar (\$1) per contributor for the year, the amount of such excess shall be paid from the interest reserve account of the Permanent Retirement Fund. If in the judgment of the State Board of Trustees, as evidenced by a resolution of that Board recorded in its minutes, the amount in the interest reserve account of the Permanent Retirement Fund exceeds the amount necessary to cover the ordinary requirement of that Fund for a period of five (5) years in the future, the Board may transfer to the Expense Fund such excess amount not exceeding the entire amount required to cover the expenses as estimated for the year.

8. Collection of Contributions.

(1) The collection of members' contributions shall be as follows:

(a) Each employer shall cause to be deducted on each and every pay roll of a member for each and every pay roll period subsequent to the date of establishment of the Retirement System the contributions payable by such member, as provided in this Act. Each employer shall certify to the treasurer of said employer on each and every pay roll a statement as vouchers for the amount so deducted.

(b) The treasurer or proper disbursing officer of each employer on authority from the employer shall make deductions from salaries of teachers as provided in this Act, and shall transmit monthly, or at such time as the State Board of Trustees shall designate, a certified copy of the pay roll, and the amount specified to be deducted shall be paid to the Executive Secretary of the State Board of Trustees, and after making a record of all receipts, the said Board shall pay them to the Treasurer of the State of Texas, and by him be credited to Teacher Saving Fund, and such funds shall be deemed as appropriated for use according to the provisions of this Act. For the purpose of collecting contributions of teachers who are teaching in common school districts, the county superintendent or ex officio county superintendent of each county of this State is hereby designated to perform the duties of employer of all common school districts over which he has jurisdiction, and he is hereby authorized and empowered to retain the amounts so deducted from pay rolls of members and have a corresponding amount deducted from any funds available for paying teachers' salaries, and transmit same to the Executive Secretary of the State Board of Trustees as provided for in this Act. Any college or university or other educational institution or agency supported in whole or in part by the State shall have the amount retained or deducted from the funds regularly appropriated by the State for the current maintenance for such educational departments and institutions.

(c) For the purpose of enabling the collection of five (5) per centum of the salaries of the members of the Retirement System to be made as simple as possible, the State Board of Trustees shall require the secretary or other officer of each employer-board or agency, within thirty (30) days after the beginning of each school year, to make up a list of all teachers in its employ, who are members of the Retirement System, set out their

salaries by the month and by the year, make an affidavit to the correctness of this statement, and file the same with the Executive Secretary of the State Board of Trustees of the Teacher Retirement System. If additions to or deductions from this list should be made during the year, such additions or deductions shall likewise be certified under oath to the State Board of Trustees of the Teacher Retirement System.

(d) The State Treasurer shall furnish annually to the State Board of Trustees a sworn statement of the amount of the funds in his custody belonging to the Retirement System. The records of the State Board of Trustees shall be open to public inspection and any member of the Retirement System shall be furnished with a statement of the amount to the credit of his individual account upon written request by such member, provided that the State Board of Trustees shall not be required to answer more than one such request of a member in any one year.

(2) The collection of the State's contributions shall be made as follows:

(a) On or before the first day of November, next preceding each regular session of the Legislature, the State Board of Trustees shall certify to the State Board of Control for its review and adoption the amount necessary to pay the contributions of the State of Texas to the Teacher Retirement System for the ensuing biennium. This amount shall be included in the budget of the State which the Governor submits to the Legislature. The State Board of Trustees shall certify on or before August 31st of each year to the State Comptroller of Public Accounts and to the State Treasurer the estimated amount of contributions to be received from members during the ensuing year.

(b) All moneys allocated and appropriated by the State to the Teacher Retirement System shall be paid to the Teacher Retirement System in monthly installments as provided in House Bill No. 8, Acts of the Regular Session, Forty-seventh Legislature. Each of said monthly installments shall be paid into the State Membership Accumulation Fund and the Prior-Service Annuity Reserve Fund in the proportional amounts certified by the State Board of Trustees. As amended Acts 1941, 47th Leg., p. 610, ch. 376, § 5.

Allocation and appropriation annually to the Teacher Retirement System, see article 7083a.

TITLE 50—ELECTIONS**CHAPTER FIVE—SUFFRAGE****Art. 2955. 2939 Qualifications for voting**

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six (6) months within the district or county in which he or she offers to vote, shall be deemed a qualified elector. The electors living in an unorganized county may vote at an election precinct in the county to which such county is attached for judicial purposes; provided that any voter who is subject to pay a poll tax under the laws of this State, shall have paid said tax before offering to vote at any election in this State and holds a receipt showing that said poll tax was paid before the first day of February next preceding such election; and, if said voter is exempt from paying a poll tax and resides in a city of ten thousand (10,000) inhabitants or more, he or she must procure a certificate showing his or her exemptions, as required by this title. If such voter shall have lost or misplaced said tax receipt, he or she shall be entitled to vote upon making and leaving with the judge of the election an affidavit that such tax was paid by him or her, or by his wife or by her husband before said first day of February next preceding such election at which he or she offers to vote, and that said receipt has been lost or misplaced. In any election held only in a subdivision of a county for the purpose of determining any local question or proposition affecting only such subdivision of the county, then in addition to the foregoing qualifications, the voters must have resided in said county for six (6) months next preceding such election. The provisions of this Article as to casting ballots shall apply to all elections including general, special, and primary elections; provided that a city poll tax shall not be required to vote in any election in this State except in city elections. As amended Acts 1941, 47th Leg., p. 64, ch. 50, § 1.

Approved and effective March 5, 1941. the Act should take effect from and after
Section 2 of the amendatory Act of 1941 its passage.
declared an emergency and provided that

Art. 2959. 2942 Liable to poll tax

A poll tax shall be collected from every person between the ages of twenty-one (21) and sixty (60) years who resided in this State on the first day of January preceding its levy, Indians not taxed, persons insane, blind, deaf or dumb, those who have lost a hand or foot, those permanently disabled, and all disabled veterans of foreign wars, where such disability is forty (40%) per cent or more, excepted. It shall be paid at any time between the first day of October and the first day of February following; and the person when he pays it, shall be entitled to his poll tax receipt, even if his other taxes are unpaid. As amended, Acts 1941, 47th Leg., p. 1406, ch. 639, § 1.

Filed without the Governor's signature, Section 2 of the amendatory Act of 1941
July 25, 1941. declared an emergency and provided that
Effective July 24, 1941. the Act should take effect from and after
its passage.

Art. 2960. 2943 Exempt from poll tax

Every person who is more than sixty (60) years old, or who is blind or deaf or dumb, or is permanently disabled, or has lost a hand or foot, or who is a disabled veteran of a foreign war, where such disability is forty (40%) per cent or more, shall be entitled to vote without being required to pay a poll tax if he has obtained his certificate of exemption from the County Tax Collector when same is required by the provisions of this title. As amended, Acts 1941, 47th Leg., p. 1336, ch. 604, § 1.

Approved and effective July 9, 1941.

Section 2 of the amendatory Act of 1941 the Act should take effect from and after declared an emergency and provided that its passage.

Art. 2961. 2944 Mode of paying poll tax

If the taxpayer does not reside in a city of ten thousand (10,000) inhabitants or more, his poll tax must either be paid by him in person or by some one duly authorized by him in writing to pay the same, and to furnish the Collector the information necessary to fill out the blanks in the poll tax receipt. Such authority and information must be signed by the party who owes the poll tax, and must be deposited with the Tax Collector and filed and preserved by him. A taxpayer may pay his poll tax by a remittance of the amount of the tax through the United States mail to the County Tax Collector, accompanying said remittance with a statement in writing showing all the information necessary to enable the Tax Collector to fill out the blank form of the poll tax receipt, which statement must be signed by the party who owes the poll tax under oath, but the husband may sign for the wife and in like manner the wife may sign for the husband, and the Tax Collector shall issue and mail to the taxpayer at his last known address a poll tax receipt, or, if requested to do so by the taxpayer in writing, the Collector may hold said receipt to be delivered to the taxpayer in person. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner the wife may pay the poll tax of her husband and receive the receipt therefor. The Assessor and Collector of Texas may at such places as shall in his discretion be necessary or advisable, have a duly authorized and sworn deputy for the purpose of accepting poll taxes and giving receipts therefor. As amended Acts 1941, 47th Leg., p. 183, ch. 132, § 1.

Filed without the Governor's signature, April 16, 1941.

Effective April 28, 1941.

Section 3 of the amendatory Act of 1941

repealed all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 2962. 2945 Paying poll tax in large city

In all cases where the taxpayer resides in a city of ten thousand (10,000) inhabitants or more, the tax must be paid in person by the taxpayer entitled to the receipt, except as provided by this Article. A taxpayer may pay his poll tax by a remittance of the amount of the tax through the United States mail to the County Tax Collector, accompanying said remittance with a statement in writing showing all the information necessary to enable the Tax Collector to fill out the blank form of the poll tax receipt, which statement must be signed by the party who owes the poll tax under oath, but the husband may sign for the wife and in like manner the wife may sign for the husband, and the Tax Collector shall issue and mail to the taxpayer at his last known address a poll tax

receipt, or, if requested to do so by the taxpayer in writing, the Collector may hold said receipt to be delivered to the taxpayer in person. A person who is entitled to a certificate of exemption may obtain the same by sending through the United States mail a written request addressed to the Tax Collector furnishing the information necessary to enable the Tax Collector to fill out the blank form of certificate of exemption, which written request shall be under oath signed by the person entitled to the certificate, and the Tax Collector upon receipt of such request and information shall issue and mail to said person at his last known address a certificate of exemption, or, if requested to do so by said person in writing, the Collector may hold said certificates to be delivered to the person entitled thereto. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner the wife may pay the poll tax of her husband and receive the receipt therefor. If a person residing in a city of ten thousand (10,000) inhabitants who is subject to pay a poll tax, leaves the county of his residence with the intention not to return until after the first day of the following February, and does not return before that time, he shall be entitled to vote, if possessing all other legal qualifications, by paying his poll tax or obtaining his certificate of exemption through an agent authorized by him in writing, which shall state truly his intention to depart from the county, the expected period of his absence, and every fact necessary to enable the Tax Collector to fill the blanks in his receipt. Such authority in fact, must be sworn to by the citizen, and certified to by some officer authorized to administer oaths. It shall be deposited with the Tax Collector and kept in his office. As amended Acts 1941, 47th Leg., p. 183, ch. 132, § 2.

Filed without Governor's signature, April 16, 1941.

Effective April 28, 1941.

Art. 2970. 2956 Poll tax books

The Commissioners Court of each county in this State, before the first day of October every year, shall furnish to the County Tax Collector a sufficient number of blank poll tax receipt books and blank certificates of exemption books for the county. Each receipt and certificate shall, in such books, be bound immediately over a duplicate copy which when filled out shall correspond with the receipt or certificate in its number and name, length of residence in the State and county, and the voting precinct, race, occupation, and post-office address of the citizen to whom the tax receipt or certificate of exemption is given. If the citizen resides in a city, the receipt or certificate and duplicate must show the ward, street, and number, if numbered, of the citizen's residence (in lieu of post-office address) and the length of time he has resided in such city; the receipt and certificates shall be numbered in consecutive order for the entire county. Similar blank books of poll tax receipts and certificates of exemption shall be furnished to such unorganized county attached to such county for judicial purposes. When the tax receipt or certificate is delivered to the citizen, it shall be detached from the book and retained by him for his future use and identification in voting, and at the time said books are made, the Commissioners Court shall prepare a separate book or books which shall be marked 'Alien Poll Tax Receipt Book' and if the tax certificate provided for in Article 2965 of this Chapter discloses that said applicant is an alien then the Tax Collector shall issue from the book marked "Alien Poll Tax Receipt Book" a receipt to said applicant which shall have printed on the face of said receipt the word "alien" not less than two (2) inches in height, superimposed in outline type, printed in red ink, and in order that the

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

Tax Collector may carry out this provision, it shall be the duty of the Commissioners Court to provide the separate book or books as herein set out and have the receipt prepared in said book or books in conformity with the above provision. As amended Acts 1941, 47th Leg., p. 198, ch. 143, § 1.

Approved and effective April 15, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of

laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER SIX—OFFICIAL BALLOT

Art.

2978a. Affidavit required for name to appear on official ballot; certain parties' candidates excluded [New].

Art. 2978a. Affidavit required for name to appear on official ballot; certain parties' candidates excluded

Section 1. No person shall be permitted to have his name appear upon said official ballot as a candidate for any office in this State unless and until he shall file with the Secretary of State his affidavit, in a form to be prescribed by the Attorney General, that if elected to the office which he seeks, he will support and defend the Constitution and Laws of the United States and of Texas. Said affidavit shall further recite that such candidate believes in, approves of and if elected will support and defend our present representative form of government, and will resist any effort or movement from any source which seeks to subvert or destroy the same or any part thereof. Use of the masculine term herein shall be construed to include the feminine.

Sec. 2. The name of no candidate or nominee of any political party whose principles include any thought or purpose of setting aside representative form of government and substituting therefor any other form of government shall be permitted on said official ballot.

Sec. 3. It is specifically provided that no candidate or nominee of the Communist Party, or the Fascist Party, or the Nazi Party, shall ever be allowed a place on said official ballot. Added Acts 1941, 47th Leg., p. 877, ch. 547, § 1.

Approved and effective June 30, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

CHAPTER SEVEN—ARRANGEMENTS AND EXPENSES OF ELECTION

Art.

2997c. Runoff elections in cities and towns of over 200,000; voting machines; ballot [New].

Art. 2997c. Runoff elections in cities and towns of over 200,000; voting machines; ballot

Section 1. In all cities and towns in this State, whether incorporated under General or Special Law, (including home rule cities) having a population in excess of two hundred thousand (200,000) inhabitants, according to the last preceding or future Federal Census the election of

candidates for all municipal offices shall be determined in the following manner:

(a) Election by majority vote. Any candidate for office in any duly held municipal election receiving a majority of all the votes cast for the office for which he is a candidate shall be elected to such office.

(b) In the event any candidate for either of said offices fails to receive a majority of all votes cast for all the candidates for such office at such election the Mayor of said city shall, on the first day following the completion of the official count of the ballots cast at said first election, issue a call for a second election to be held in said city on the second Tuesday following the issuance of such call, at which said second election the two candidates receiving the highest number of votes for any such office in the first election, at which no one was elected at said first election by receiving a majority of all votes cast for all candidates for such office, shall again be voted for. The official ballot to be used at said second election shall be prepared by the City Clerk or City Secretary and the name of no person shall appear thereon unless he was a candidate for the office designated at said first election, and the two persons receiving at said first election the first and second highest number of votes cast for candidates for such office at such first election shall be entitled to have their names printed on said official ballot in the order of their standing in the computation of the votes cast for such candidates at said first election as candidates at said second election for such office; provided, however, that in the event any person who was a candidate at said first election and who shall be entitled to become a candidate at said second election shall fail to request that his name shall appear on the official ballot therefor at such second election as herein provided, the candidate for such office standing next highest in the computation of votes shall succeed to the rights of such candidate who failed to request that his name appear upon the ballot at said second election; provided further, that two candidates for such office at said first election shall be entitled or become candidates therefor at said second election, which two candidates shall be those two among such candidates as shall stand highest respectively in the computation of all votes cast for all the candidates for such office at said first election as shall file written requests to be placed on the official ballot as candidates for such office at said second election. In the event of a tie in the vote for the two leading candidates for any office at said first election, said office shall be filled at a second election as herein provided for, at which such candidates so tied in said first election may again become candidates. In the event such candidates who tied in said first election, or either of them, shall fail so to do, the two candidates for such office who are next highest in the computation of votes therefor and who desire to become candidates therefor at said second election shall be entitled so to do in order of the number of votes they respectively received at said first election. In the event of a tie between the two candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.

Sec. 2. This law shall not apply to any city whose charter now, or hereafter, provides for the selection of its officers by means of a preferential type of ballot; provided that such city does not use voting machines as the legal method of voting.

Sec. 3. The provisions of all laws, charters, and ordinances in conflict with the provisions of this Act are hereby expressly repealed. Acts 1941, 47th Leg., p. 98, ch. 80.

Approved and effective March 26, 1941. should take effect from and after its
Section 4 of the Act of 1941 declared an passage.
emergency and provided that the Act

Title of Act:

An Act to provide for and regulate the holding of runoff elections in cities and towns having a population in excess of two hundred thousand (200,000) inhabitants, according to the last preceding or any future Federal Census; providing that

cities not using voting machines may adopt the preferential type ballot in lieu of the procedure set forth in this Act; repealing all laws, parts of laws, charter provisions, and ordinances in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 98, ch. 80.

CHAPTER THIRTEEN—NOMINATIONS

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

Art.

3116e. Payment to County Executive Committee by Candidates for Representative in Certain Counties [New].

Art.

3116f. Counties of 31,950 to 32,840 and of 11,940 to 12,013; payments to county executive committee by candidates for state representative [New].

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

Art. 3116e. Payments to County Executive Committee by candidates for Representative in certain counties

In all counties of this State having a population of not less than thirty-eight thousand (38,000) nor more than thirty-eight thousand, three hundred and twenty-five (38,325) population, and in counties having not less than twelve thousand, four hundred and twenty-five (12,425) nor more than twelve thousand, four hundred and seventy-five (12,475) population, and in counties having not less than ten thousand, eight hundred (10,800) nor more than ten thousand, nine hundred (10,900) population, and in counties having not less than forty-seven thousand, seven hundred and fifty (47,750) nor more than fifty thousand, two hundred (50,200) population, and in counties having not less than twenty-two thousand (22,000) nor more than twenty-three thousand (23,000) population, and in counties having not less than twelve thousand, three hundred and twenty-five (12,325) nor more than twelve thousand, four hundred (12,400) population, and in counties having not less than eighteen thousand, three hundred and fifty (18,350) nor more than eighteen thousand, eight hundred (18,800) population, and in counties having not less than twenty-eight thousand, nine hundred (28,900) nor more than twenty-nine thousand, two hundred and forty-five (29,245) population, and in counties having not less the twenty-five thousand, six hundred and eight (25,608) nor more than twenty-five thousand, eight hundred and ninety-five (25,895) population, and in counties having not less than twenty-four thousand, nine hundred and ten (24,910) nor more than twenty-five thousand, three hundred and fifty (25,350) population, according to the last Federal Census, no person who is a candidate in a primary election of such counties for nomination for State Representative in the Legislature shall have his name placed on such primary ballot unless and until he has paid to the County Executive Committee of his county a sum to be fixed by such Executive Committee not to exceed Fifty Dollars (\$50) as his portion of the expenses for holding such primary election, and such candidate shall not be required to pay any other sum or sums to any other person or committee to have his name placed on the ballot as such candidate in such county. Acts 1941, 47th Leg., p. 411, ch. 240, § 1.

Filed without the Governor's signature,
May 12, 1941.

Effective May 21, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws or parts of laws as to those portions of such law or laws as are

in conflict herewith. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in counties having not less than thirty-eight thousand (38,000) nor more than thirty-eight thousand, three hundred and twenty-five (38,325) population, and in counties having not less than twelve thousand, four hundred and twenty-five (12,425) nor more than twelve thousand, four hundred and seventy-five (12,475) population, and in counties having not less than ten thousand, eight hundred (10,800) nor more than ten thousand, nine hundred (10,900) population, and in counties having not less than forty-seven thousand, seven hundred and fifty (47,750) nor more than fifty thousand, two hundred (50,200) population, and in counties having not less than twenty-two thousand (22,000) nor more than twenty-three thousand (23,000) population, and in counties having not less than twelve thousand, three hundred and twenty-five (12,325) nor more than twelve thousand, four hundred (12,400)

population, and in counties having not less than eighteen thousand, three hundred and fifty (18,350) nor more than eighteen thousand, eight hundred (18,800) population, and in counties having not less than twenty-eight thousand, nine hundred (28,900) nor more than twenty-nine thousand, two hundred and forty-five (29,245) population, and counties having not less than twenty-five thousand, six hundred and eight (25,608) nor more than twenty-five thousand, eight hundred and ninety-five (25,895) population, and counties having not less than twenty-four thousand, nine hundred and ten (24,910) nor more than twenty-five thousand, three hundred and fifty (25,350) population, according to the last Federal Census, a candidate in a primary election of such counties for State Representative in the Legislature in any of such counties shall not have his name placed on the ballot unless and until he has paid to the County Executive Committee of his county a sum to be fixed not in excess of Fifty Dollars (\$50); repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 411, ch. 240.

Art. 3116f. Counties of 31,950 to 32,840 and of 11,940 to 12,013; payments to county executive committee by candidates for state representative

In all counties of this State having a population of more than thirty-one thousand, nine hundred and fifty (31,950), and not in excess of thirty-two thousand, eight hundred and forty (32,840), according to the last preceding Federal Census, and in all counties of this State having a population of more than eleven thousand, nine hundred and forty (11,940), and not in excess of twelve thousand, and thirteen (12,013), according to the last preceding Federal Census, no person who is a candidate in a primary election in such county for nomination for State Representative in the Legislature shall have his name placed on such primary ballot unless and until he has paid to the County Executive Committee of each county a sum to be fixed by such County Executive Committee, not to exceed Thirty Dollars (\$30), as such candidate's portion of the expenses for holding such primary election, and such candidate shall not be required to pay any other sum or sums to any other person or committee in such counties to have his name placed on the primary election ballot as a candidate for such office. The term primary election, as used in this Act, shall mean and include a first primary and a second or run-off primary, if such be necessary, and a candidate shall not be required to pay any additional sum or sums in the event of a second or run-off primary. Acts 1941, 47th Leg., p. 1412, ch. 644, § 1.

Filed without the Governor's signature, July 25, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws; Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that candidates for nomination for State Representative in a primary election in certain counties shall be required to pay a fee not to exceed Thirty Dollars (\$30) to the County Executive Committee; repealing all laws in conflict; and declaring an emergency. Acts 1941, 47th Leg., p. 1412, ch. 644.

Art. 3125. 3123-25 Canvass of result

At the meeting of the county executive committee, provided for in Article 3124, returns from the election precincts of the county shall be canvassed by the committee. Within the meaning of this Act, such canvass shall include an actual checking and comparison of the voting lists with the tally lists and return sheets, and a mere tabulation of votes shown by the return sheets shall not be deemed a compliance with this provision. All discovered errors in the returns shall be corrected before the results of the election are certified, and upon the sworn statement of any candidate filed with the committee before the actual printing of the official ballot, setting out alleged errors in the primary election returns as certified by the county executive committee, the said committee shall be reconvened for the investigation and consideration of such alleged error, which provision is hereby declared to be mandatory and may be enforced by writ of mandamus. The said committee shall have the power to exclude any vote that is prima facie illegal, but any vote involving a question of law, or mixed question of law and fact shall not be determined by the committee. When the votes have been canvassed in accordance with the foregoing provisions and the result thereof declared by the committee, the chairman of the executive committee shall make a list of the candidates for county and precinct offices who received the necessary vote to nominate and shall certify the same and deliver it to the county clerk of the county. At the meeting of the executive committee after the first primary, if a majority of the votes be required to nominate for county and precinct offices, and in any case no candidate received a majority of the votes, the county executive committee shall determine the two candidates who received the highest number of votes cast for all candidates for the particular office and order their names printed on the ballot for the second primary. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 12 of the amendatory act of 1941, read as follows: "Articles 3149 and 3151, Revised Civil Statutes, 1925, are hereby expressly repealed; Article 3152, Revised Civil Statutes, 1925, as amended by Chapter 19, Acts of the Fortieth Legislature, as

amended by Chapter 241, Acts of the Forty-Second Legislature is hereby expressly repealed; all other laws or parts of laws in conflict with this Act are hereby expressly repealed."

Section 13 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 3126. 3124 Tie in primary

If, upon a canvass of the returns of the first primary election, it appears that for a county or precinct office, the two highest candidates have received an equal number of votes, then the names of such two highest candidates shall be certified for places on the ballot of the second primary, unless the said candidates shall agree in writing to cast lots for such nomination. Should a tie vote result from any contest in the second primary election, then the executive committee shall provide for the casting of lots in the presence of said candidates, and that candidate who shall be successful by lot shall be certified as the nominee for such office. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 2.

Effective date. See note under article 3125.

Art. 3128. 3129 Boxes and ballots returned

Ballot boxes after being used in primary elections, shall be returned with the ballots cast as they were deposited therein by the election judges, locked and sealed, to the county clerk, and unless there be a contest for a nomination in which fraud or illegality is charged, they shall be unlocked

and unsealed by the county clerk and their contents destroyed by the county clerk and the county judge without examination of any ballot, at the expiration of sixty (60) days after such primary election. Provided, that the district judge, upon his own motion or upon the request of the county or district attorney, may, by an order entered on the minutes of the district Court, defer the destruction of the contents of such ballot boxes for a period not exceeding twelve (12) months after such primary election. As amended Acts 1941, 47th Leg., p. 1400, ch. 635, § 3.

Effective date. See note under article 3125.

Art. 3129. 3130 To publish nominees

The county clerk, under his official hand and seal, shall cause the names of the candidates who have received the necessary vote to nominate, as directed by the county executive committee and as certified by the chairman of said committee, for each office, to be published in some newspaper published in the county, if any there be, but if there be no newspaper published in the county, then he shall post a list of such names in at least five public places in the county, one of which notices shall be posted at the courthouse door. Provided, that if a contest for the nomination for any county or precinct office in the county be pending, publication or posting as to that office shall be deferred until the contest is finally determined, after which, he shall post or publish as to that particular office as hereinabove set out. As amended Acts 1941, 47th Leg., p. 1400, ch. 635, § 4.

Effective date. See note under article 3125.

Art. 3130. 3131 Objections to nomination; jurisdiction of district court; procedure

The District Court shall have original and exclusive jurisdiction of all contests for nominations growing out of primary elections. Any candidate desiring to contest the declared result of any primary election in which he was a candidate, shall file his suit in the District Court within ten (10) days from the date of declaring the result by the executive committee, and process shall be served upon the opposite party as in other civil suits, except that the return day thereof shall be fixed by the District Judge. However, upon the filing of any such suit, the contestant shall forthwith deliver, or cause to be delivered, a true copy of his petition or complaint to the opposite party. The filing of the suit shall be immediately called to the attention of the District Judge by the Clerk of said Court. If the District Court be then in session, the Judge thereof shall set the said contest for trial at a date not more than ten (10) days from the date of the filing of said contest. If the District Court be not in session at said time, the Judge thereof shall order a special term of said Court to be convened not later than ten (10) days from the filing of such contest for the hearing of same, and in either case, the said contest shall have precedence over all other matters. The contestee shall file his answer within five (5) days from the filing of such suit, but either party, or both, shall have the right to amend before announcing ready for trial and set up additional causes of action or matters of defense, as the case may be. Any further changes in the pleadings shall be within the sound discretion of the Court. In the trial of such cause, the trial judge shall have wide discretion as to matters of pleading, procedure and admissibility of evidence, the purpose of this article being to subserve the ends of justice, rather than strict compliance with technical rules of pleading, procedure, and evidence. The District Court shall have the ex-

clusive power to determine the regularity of the election in the county or any precinct, and the legality or illegality of any ballot involving a question of law, or mixed question of law and fact. When the issues involved in such contest have been adjudicated, the District Court shall cause its decision to be certified to the county clerk of the county. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 5.

Effective date. See note under article 3125.

Art. 3131. 3132 Name printed on ballot

After the names of the successful candidates have been published or posted in compliance with Article 3129, and all contests, if any, have been determined, the county clerk shall cause the names of all the nominees to be printed on the official ballot in the column for the ticket of that party. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 6.

Effective date. See note under article 3125.

Art. 3146. 3147 Contest of primary

Except for a place on party tickets for public elective offices, all contests within a political party shall be decided by the State, District, or County Executive Committee, as the nature of the office may require, each such Committee to retain all such powers and authority now conferred by law. As amended, 1941, 47th Leg., p. 1400, ch. 635, § 7.

Effective date. See note under article 3125.

Art. 3147. 3148 Venue of suits or contests

The venue of suits or contests between candidates for nomination for State office is hereby fixed in the District Court of Travis County, Texas, unless the parties shall agree upon some other county. The venue of suits between candidates involving party nomination for district offices shall be in the county in which the fraud or illegality is alleged to have occurred, or in the county that may be agreed upon by the parties. The venue of suits involving party nominations for precinct or county offices shall be fixed as in the county where such cause of action originated. Provided, that nothing herein shall be construed to prohibit the District Court in the county where any such contest may be filed from changing the venue to some other adjacent county, upon showing of adequate cause, and in the event of any such change of venue, the District Court of the county to which such contest is transferred shall be governed by all the provisions of this Act. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 8.

Effective date. See note under article 3125.

Art. 3148. 3149 Contest before executive committee

The complaining candidate, if he desires to file a contest with the executive committee, shall, within five (5) days after the result has been declared by the committee or convention, cause a notice to be served on the chairman or some member of the executive committee, in which he shall state specifically the ground of his contest; and said hearing shall be set at a date not exceeding ten (10) days from the filing of said contest; and he shall also serve or cause to be served on the opposing candidate a copy of such notice, at least five (5) days prior to the date set for hearing by the committee; provided, however, that such notice may be

served upon the agent or attorney of such opposing candidate, or may be served by leaving the same with some person over the age of sixteen (16) years at the usual place of residence or business of such opposing candidate, or his last address. If special charges of fraud or illegality in the conduct of the election, or in the manner of holding the convention, or in the manner of making nominations, are made, and not otherwise, the chairman, or, in case he fails or refuses, any member of the committee, shall within twenty (20) days after the primary election, or the convention, convene the executive committee, who shall then examine the charges, hear evidence and decide in favor of the party who in their opinion was nominated in the primary election, or in the convention; provided, that, before any advantage can be taken of the disregard or violation of any directory provision of the law, it must appear that, but for such disregard or violation, the result would have been different. As amended Acts 1941, 47th Leg., p. 466, ch. 292, § 1.

Approved May 16, 1941.
Effective 90 days after July 3, 1941, date of adjournment.

This article was also amended by Acts 1941, 47th Leg., p. 1400, ch. 635, effective 90 days after July 3, 1941, date of adjournment. See article 3148, post.

Section 2 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 3148. 3149 Powers of district court where fraud or illegality charged

In addition to the powers and authority granted to the District Courts by Article 3130, as amended by this Act, where fraud or illegality is charged, if such charges of fraud or illegality be supported by some evidence, or by affidavit of reputable persons, and the ends of justice seem to require it, the Court shall have authority to unseal and reopen the ballot boxes to determine controverted issues, and the Court may recount, or under its direction cause to be recounted, the ballots cast in any or all precincts of the county to determine the true result of such election. In all such cases in which a reopening of ballot boxes is ordered, the Court shall exercise all due diligence to preserve the secrecy of the ballots, and upon completion of such recount, the said ballot boxes with their original contents shall be resealed and redelivered to the county clerk. As amended Acts 1941, 47th Leg., p. 1400, ch. 635, § 9.

Effective date. See note under article 1941, 47th Leg., p. 466, ch. 292, § 1, effective 3125. 90 days after July 3, 1941, date of adjournment.

This article was also amended by Acts 1941, 47th Leg., p. 1400, ch. 635, § 12, effective 90 days after July 3, 1941, date of adjournment. See article 3148, ante.

Art. 3149. Repealed. Acts 1941, 47th Leg., p. 1400, ch. 635, § 12. Eff. 90 days after July 3, 1941, date of adjournment

Art. 3150. 3151-2 District court to certify findings; filing record in appellate court

When the District Court shall have decided the contest, unless notice of appeal to the Court of Civil Appeals be given and an appeal bond filed within five (5) days, the said Court shall certify its findings to the officers charged with the duty of providing the official ballot for the ensuing election for observance in the preparation of the ballot for that particular party. The trial Court shall further fix a time within which the record in the trial Court shall be filed in the appellate Court, and make all such other orders in the cause as in his discretion may be necessary and expedient in order to expedite such appeal. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 10.

Effective date. See note under article 3125.

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

Art. 3151. Repealed. Acts 1941, 47th Leg., p. 1400, ch. 635, § 2. Eff. 90 days after July 3, 1941, date of adjournment

Art. 3152. 3154 to 3157 By district court

In State, district, county, precinct, or municipal offices, the certificate of nomination issued by the president or chairman of the nominating convention or chairman of the county executive committee shall be subject to review, upon allegations of fraud or illegality, by the District Court of the county in which the contestee resides, or the Judge of said Court in vacation, or in any county in which contestee was candidate for office; provided, that such allegations are filed in said Court within ten (10) days after the issuance of said certificate; and when said allegations are so filed, or the appeal from the decision of the executive committee is perfected, the Judge of the District Court shall set same down for hearing, either in termtime or vacation, at the earliest practicable time, not to exceed ten (10) days; and a copy of said grounds of contest, together with the notice of the date set for hearing shall be prepared and issued by the District Clerk and be served upon the contestee five (5) days before the hearing by said Court or Judge, and the parties to said contest shall have the right to summon witnesses; provided however, that service upon the contestee of a copy of said grounds of said contest, together with the notice of the date set for hearing, may be had by service upon the agent or attorney of such person, or by leaving the same with some person over the age of sixteen (16) years at the usual place of residence or business of the contestee, or his last address. The said Court or Judge shall determine said contest at the earliest time practicable. A certified copy of the judgment of said Court or Judge shall be transmitted by the clerk thereof to the officers charged with the duty of providing the official ballot, and the name of the candidate in whose favor said judgment shall be rendered shall be printed in the official ballot for the general election.

For good cause shown, supported by affidavit of either party, the trial of said contest may be postponed one time for not exceeding five (5) days. As amended Acts 1941, 47th Leg., p. 467, ch. 293, § 1.

Approved May 16, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

This article as amended by Acts 1927, 40th Leg., p. 24, ch. 19, § 1, and Acts 1931,

42nd Leg., p. 395, ch. 241, § 1, was repealed by Acts 1941, 47th Leg., p. 1400, ch. 635, § 12, effective 90 days after July 3, 1941, date of adjournment. The repealing section made no reference to the amendment by Act 1941, 47th Leg., p. 467, ch. 293, § 1, which specifically amended article 3152 as previously amended in 1927 and 1931.

Art. 3153. 3158 Appeal from district court

In all contests for party nominations filed in the District Courts under authority of this Act, either party thereto may appeal to the Court of Civil Appeals for that particular Supreme Judicial district, which appeal shall be advanced upon the docket of said Court and shall have precedence over all other cases. Provided, that no appeal in such cases shall be dismissed as moot merely because of possible interference with the printing of the official ballot, unless the appellant has been guilty of negligence in perfecting and prosecuting such appeal, (but such appellate Court shall retain jurisdiction of such appeal) and expeditiously dispose of same. As amended, Acts 1941, 47th Leg., p. 1400, ch. 635, § 11.

Effective date. See note under article 3125.

TITLE 51—ELEEMOSYNARY INSTITUTIONS**CHAPTER TWO—STATE HOSPITALS****Art. 3184. Superintendent**

State Cancer Hospital and Division of
Cancer Research, see article 2603e.

CHAPTER THREE—OTHER INSTITUTIONS
WACO STATE HOME**Art. 3259. Placing child in children's boarding home—Dismissal of
child**

Sec. 1. Children committed to the Waco State Home may be placed by the superintendent, upon the approval of the State Board of Control and under the authority of an order to that effect issued by the Court which committed such child to such institution, in children's boarding homes at a reasonable rate not to exceed One Dollar (\$1) per day for each child so boarded when in the judgment of such superintendent effective administration of said Waco State Home so requires; provided that such children's boarding homes shall obtain an annual license as required by law, which license shall be issued without fee, and under such reasonable and uniform rules and regulations as the State Board of Public Welfare may prescribe for all children's boarding homes in accordance with the laws of this State as same now exist or may hereafter be enacted. No child shall be placed in such children's boarding home unless it is deemed advantageous to the welfare of such child; and children so placed shall be deemed to have the same status as other inmates of said Waco State Home and shall continue to be wards and subject to the guardianship of said superintendent. Children shall be given preference who, in the judgment of the superintendent, are eligible upon the basis of their respective individual problems and individual needs, and who will profit most by such placement, and whose placement will make for more effective administration of the Waco State Home's program; provided, however, that no more than twenty (20) such children from all inmates of said Waco State Home shall, at any given time, be so boarded. The superintendent of said Waco State Home shall, upon the approval of said Board, replace or remove such child from such licensed boarding homes when in his discretion he deems it advisable; or upon complaint of such child, the superintendent shall remove the child from such children's boarding home; provided that nothing herein shall abridge the visitorial and regulatory powers of the superintendent over the person of any such child so placed in such children's boarding homes, until such child has been dismissed from said Waco State Home, and then under such provisions and limitations as hereinafter stated.

Sec. 2. No child shall be dismissed from the Waco State Home until some suitable home has been found for it, or it has become self-supporting and only then upon the written recommendations of the superintendent to the State Board of Control, or when any ward committed to said Home has become married with the consent of the Board and superintendent. Children may be placed for adoption only in homes approved by the Division of Child Welfare, State Department of Public Welfare. Upon

the adoption or marriage of any such child, the visitorial and regulatory powers of said Board of Control and superintendent shall terminate. Any child not adopted who goes out from this Home either under the custody of some adult or as self-supporting shall continue under the supervision and guidance of said Board. The Board or its representative shall visit the place where said child is living or employed, and it shall be the duty of the person having the custody of said child to answer all questions asked by such Board or representative concerning the conduct, employment, treatment, or condition of said child. If in the judgment of the Board it should be for the best interest of said child that it be returned to said Waco State Home, the Board is hereby empowered to have it returned. As amended Acts 1941, 47th Leg., p. 601, ch. 369, § 1.

Approved and effective May 22, 1941.
Section 2 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

NAVARRO COMMUNITY FOUNDATION

Art. 3263b. Foundation established; powers and duties

This article is void because it violates Const. art. XII, § 1, providing that no private corporation shall be created except by general laws. Therefore, no corporation

was created by this article. See *Miller v. Davis*, 136 T. 299, 150 S.W.2d 973, 136 A.L.R. 177, reversing, Civ.App., 146 S.W.2d 1006.

TITLE 52—EMINENT DOMAIN

Texas State Teachers Colleges, power of eminent domain vested in regents, see article 2647b.

Art. 3264. 6506, 6528 Procedure

Agricultural and Mechanical College vested with power of eminent domain, see article 2613a—5.

Art. 3266. 6507—28 General provisions

7. If no objections to the decision are filed within ten (10) days, the County Judge shall cause said decision to be recorded in the minutes of the County Court, and shall make the same the judgment of the court and issue the necessary process to enforce the same. As amended, Acts 1941, 47th Leg., p. 872, ch. 543, § 1.

Approved and effective June 30, 1941.
Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of

laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 3268. 6530, 4471, 4205 Damages paid first

Agricultural and Mechanical College not required to comply, see article 2613a—5.

Texas State Teachers Colleges, bond or deposit not required, see art. 2647b.

TITLE 54—ESTATES OF DECEDENTS

CHAPTER FOUR—APPLICATIONS FOR THE PROBATE OF WILLS AND FOR LETTERS

THE CITATION

Art.
3333a. Validation of citation and return
thereof [New].

THE CITATION

Art. 3333a. Validation of citation and return thereof

Section 1. In all cases where written wills have been probated, or letters of administration granted upon citation or notice duly issued by the clerk, and conforming to the requirements of Article 3333 of Title 54 of the Revised Civil Statutes of Texas, Revision of 1925, as amended, but not directed to the Sheriff, or any Constable of the county wherein the proceeding was pending, and such citation or notice had been duly posted by, and return thereof in the time, manner and form required by law had been made by the sheriff or any constable of said county, such citation or notice and return thereof and action of the court in admitting said will to probate and/or granting letters of administration upon estates are hereby validated, in so far as said citation or notice, and the issuance, service and return thereof, are concerned.

Sec. 2. The provisions of this Act shall not be applicable to the issues in any law suit or in any contested probate proceeding pending in any court of this State on the effective date of this Act. Acts 1941, 47th Leg., p. 845, ch. 521.

Approved and effective June 12, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for validating written wills heretofore probated and letters of administration heretofore granted upon citations or notices not directed to the Sher-

iff or any Constable of the County in which such proceedings are instituted but conforming to the other requirements of Article 3333 of Title 54 of the Revised Civil Statutes of Texas, Revision of 1925 as amended, providing that this Act shall not apply in certain cases, and declaring an emergency. Acts 1941, 47th Leg., p. 845, ch. 521.

CHAPTER ELEVEN—RIGHTS, DUTIES AND POWERS OF EXECUTORS AND ADMINISTRATORS

Art.
3432b. Payment or credit of annual net
income of estate to owners of es-
tate [New].

Art. 3432b. Payment or credit of annual net income of estate to owners of estate

In all cases where the estate of a deceased person is being administered under the direction, control, and orders of a County Court in the exercise of its probate jurisdiction, upon the application of the executor or administrator of said estate, or any interested party, after notice thereof has been given in the same manner and for the same time as provided for in Sections 6 and 7¹ of House Bill No. 112, Chapter 446 of the Acts of the Forty-fourth Legislature, Second Called Session, 1935, relating to notices of applications filed under the pro-

visions of said House Bill No. 112,² and when it appears from evidence introduced at the hearing upon said application, and the Court finds that the reasonable market value of the assets of the estate then on hand, exclusive of the annual income therefrom, is at least twice the aggregate amount of all unpaid debts, administration expenses, and legacies, and no creditor or legatee of the estate then appearing and objecting, the County Court may order and direct the executor or administrator to pay to, or credit to the account of, those persons who the Court finds will own the assets of the estate, when the administration thereon is completed, and in the same proportions, such part of the annual net income received by or accruing to said estate, as the Court may believe and find can be conveniently paid to such owners without prejudice to the rights of creditors, legatees, or other interested parties. Nothing herein contained shall authorize the County Court to order paid over to such owners of the estate any part of the corpus or principal of the estate; provided however, in this connection, bonuses, rentals, and royalties received for, or from, an oil, gas, and mineral lease shall be treated and regarded as income, and not corpus or principal. Acts 1941, 47th Leg., p. 633, ch. 382, § 1.

¹ Articles 3456F, 3456G.

² Article 3456A et seq.

Approved and effective May 27, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act permitting estates of deceased Texas citizens, and others being administered within its jurisdiction, to take advantage of savings in federal income taxes, authorized under Section 162 of the Federal Internal Revenue Code, by providing that where the estate of a deceased person is being administered under the direction, control, and orders of a County Court in the exercise of its probate jurisdiction, upon the application of the executor or administrator of said estate, or any interested party, after notice thereof as provided for in Sections 6 and 7 of House Bill No. 112, Chapter 446 of the Forty-fourth Legislature, Second Called Session, 1935, relating to notices of applications filed under the provisions of said House Bill No. 112, and when it appears, from the evidence introduced at the hearing of said application, and the Court finds that the reasonable market value of the assets of the estate then on

hand, exclusive of the annual income therefrom, is at least twice the aggregate amount of all unpaid debts, administration expenses, and legacies, and no creditors or legatees of the estate then appearing and objecting, the County Court may order and direct the executor or administrator to pay to, or credit to, the account of those persons who the Court finds will own the assets of the estate, when the administration thereon is completed, and in the same proportions, such part of the annual net income received by or accruing to said estate, as the Court may believe and find can be paid conveniently to, or credited to the account of, such owners without prejudice to the rights of creditors, legatees, or other interested parties, and providing that nothing contained in said Act shall authorize the County Court to order paid to, or credited to the account of, such owners of the estate any part of the corpus or principal thereof, and providing that, for the purposes of said Act, bonuses, rentals and royalties received for or from an oil, gas and mineral lease shall be treated and regarded as income and not corpus or principal; and declaring an emergency. Acts 1941, 47th Leg., p. 633, ch. 382.

CHAPTER THIRTY—APPEALS TO THE DISTRICT COURT

Art. 3699. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 332, Vernon's Texas Rules of Civil Procedure.

Art. 3701. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 333, Vernon's Texas Rules of Civil Procedure.

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

Art. 3707. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 179, Vernon's Texas Rules of Civil Procedure.

Art. 3709. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 180, Vernon's Texas Rules of Civil Procedure.

Arts. 3711-3713. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 181, 183, 184, Vernon's Texas Official interpreters for county courts at law, see article 1970-325.

Art. 3726. 3700, 2312, 2257 Recorded instruments entered without proof

Every instrument of writing which is permitted or required by law to be recorded in the office of the Clerk of the County Court, and which has been, or hereafter may be, so recorded, after being proved or acknowledged in the manner provided by the laws of this State in force at the time of its registration, or at the time it was proved or acknowledged; or every instrument which has been, or hereafter may be actually recorded for a period of ten (10) years in the book used by said Clerk for the recording of such instruments, whether proved or acknowledged in such manner or not, shall be admitted as evidence in any suit in this State, without the necessity of proving its execution; provided, no claim adverse or inconsistent to the one evidenced by such instrument shall have been asserted during that ten (10) years; provided, that the party to give such instrument in evidence shall file the same among the papers of the suit in which he proposes to use it, at least three (3) days before the commencement of the trial of such suit, and give notice of such filing to the opposite party or his attorney of record; and unless such opposite party, or some other person for him, shall, within three (3) days before the trial of the cause, file an affidavit stating that he believes such instrument of writing to be forged. And whenever any party to a suit shall file among the papers of the cause an affidavit stating that any instrument of writing, recorded as aforesaid, has been lost, or that he cannot procure the original, a certified copy of the record of any such instrument shall be admitted in evidence in like manner as the original could be. And after such instrument shall have been actually recorded as herein provided for a period of ten (10) years, it shall be no objection to the admission of same, or a certified copy thereof, as evidence, that the certificate of the officer who took such proof or acknowledgment, is not in form or substance such as required by the laws of this State; and said instrument shall be given the same effect as if it were not so defective. If the land to which the instrument pertains is situated within the county in which the suit is pending, the party desiring to offer in evidence recorded instruments, may do so, without producing the originals thereof and without accounting for his failure to produce such

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

originals, by filing a list of such instruments at least ten (10) days before the trial, giving the volume and the page wherein such instruments are recorded; and unless an affidavit is filed by the opposite party at least three (3) days before trial, stating that he believes such instruments of writing to be forged, then the party filing such lists of instruments shall be entitled to read the same from the record. A copy of a list of such instruments shall be filed with the Clerk of the County Court at least three (3) days before the trial of a case and said County Clerk shall on the day of the trial deliver, or cause to be delivered, to the Court in which the case is pending, all of the records requested, and said Clerk shall not charge for the use of said records. As amended Acts 1941, 47th Leg., p. 476, ch. 299, § 1.

Approved May 20, 1941.

Effective May 20, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

Art. 3734. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 93, Vernon's Texas Rules of Civil Procedure.

Art. 3736. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 185, Vernon's Texas Rules of Civil Procedure.

2. DEPOSITIONS

Arts. 3738, 3739. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 186, 189, Vernon's Texas Rules of Civil Procedure.

Art. 3740. 3651, 2275, 2220 Notice of publication

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Proce-

dures, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 190, Vernon's Texas Rules of Civil Procedure.

Arts. 3741-3745. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 191, 187, 192-194, Vernon's Texas Rules of Civil Procedure.

Art. 3747. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 195, Vernon's Texas Rules of Civil Procedure.

Arts. 3749-3756. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 196-203, Vernon's Texas Rules of Civil Procedure.

Arts. 3758-3769. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 204-208, 210-215, 188, Vernon's Texas Rules of Civil Procedure.

Art. 3769c. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 182, Vernon's Texas Rules of Civil Procedure.

TITLE 56—EXECUTION

Arts. 3770-3772. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 622-634, Vernon's Texas Rules of Civil Procedure.

Art. 3774. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 628, Vernon's Texas Rules of Civil Procedure.

Arts. 3776-3784. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 623-626, 622, 629-633, 621, 629, Vernon's Texas Rules of Civil Procedure.

Art. 3785. 3731, 2340, 2283 Indorsements by officers

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 636, Vernon's Texas Rules of Civil Procedure.

Arts. 3788-3791. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 637, 638, Vernon's Texas Rules of Civil Procedure.

Arts. 3793-3797. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 639-643, Vernon's Texas Rules of Civil Procedure.

Arts. 3801-3803. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 644-646, Vernon's Texas Rules of Civil Procedure.

Art. 3808. 3757, 2366, 2309 Notice of sale of real estate

The time and place of sale of real estate under execution, order of sale, or venditioni exponas shall be advertised by the officer by having the notice thereof published in the English language once a week for three consecutive weeks preceding such sale, in some newspaper published in said county. The first of said publications shall appear not less than twenty (20) days immediately preceding the day of sale. Said notice shall contain a statement of the authority by virtue of which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, and shall give the number of acres, original survey, locality in the county, and the name by which the land is most generally known, but it shall not be necessary for it to contain field notes. Publishers of newspapers shall charge the legal rate of Two (2) Cents per word for the first insertion of such publication and One Cent per word for such subsequent insertions, or such newspaper shall be entitled to charge for such publication at a rate equal to but not in excess of the published word or line

rate of that newspaper for such class of advertising. If there be no newspaper published in the county, or none which will publish the notice of sale for the compensation herein fixed, the officer shall then post such notice in writing in three public places in the county, one of which shall be at the courthouse door of such county, for at least twenty (20) days successively next before the day of sale. The officer making the levy shall give the defendant or his attorney written notice of such sale, either in person or by mail, which notice shall substantially conform to the foregoing requirements. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 2.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 7 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 6 of such act, set out under article 28a.

Repeal by Rules of Civil Procedure. This article was included in the list of

articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 647, Vernon's Texas Rules of Civil Procedure.

Art. 3809. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 648, Vernon's Texas Rules of Civil Procedure.

Arts. 3811-3815. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 649-651, Vernon's Texas Rules of Civil Procedure.

Arts. 3821-3823. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 652, 653, 655, Vernon's Texas Rules of Civil Procedure.

Art. 3828. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 654, Vernon's Texas Rules of Civil Procedure.

Art. 3831. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 656, Vernon's Texas Rules of Civil Procedure.

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

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| <p>Art.
3883e. Tax assessor-collector in counties of 70,000 to 80,000 and with \$4,000,000 assessed valuation [New].</p> <p>3912a—1. County judge as budget officer in counties of 7,050 to 7,075; compensation [New].</p> <p>3912e—4. District, County and Precinct officers in counties of over 500,000, payment of assistants and expenses of conduct of offices [New].</p> <p>3912e—5. Additional salary to county judge in counties of 105,000 to</p> | <p>Art.
125,000 as member of Juvenile Board [New].</p> <p>3912e—6. Salaries of officers in counties of 100,000 to 190,000 to be computed at maximum allowable under laws existing August 24, 1935 [New].</p> <p>3912e—7. Salaries of certain officers in counties of 100,000 to 190,000 [New].</p> <p>3912f—3. Salaries of sheriffs and deputies in counties of 25,600 to 25,889 in which there are no district attorneys [New].</p> |
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Art. 3883e. Tax Assessor-Collector in counties of 70,000 to 80,000 and with \$40,000,000 assessed valuation

Section 1. In all counties in the State with a population of more than seventy thousand (70,000) and not more than eighty thousand (80,000) according to the last preceding Federal Census, or any future Federal Census, and with an assessed valuation of not less than Forty Million Dollars (\$40,000,000), the Tax Assessor-Collector shall receive a salary of Fifty-five Hundred Dollars (\$5500), payable in equal monthly payments.

Sec. 2. It is hereby declared to be the intention of the Legislature that the provisions of this Act shall control in all things as to the counties affected hereby, and any and all laws in conflict herewith are hereby repealed to the extent and only to the extent of such conflict. Acts 1941, 47th Leg., p. 361, ch. 200.

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of Tax Assessor-Collector in all counties having

a population of more than seventy thousand (70,000) and not more than eighty thousand (80,000) according to the last preceding Federal Census, or any future Federal Census, and with an assessed valuation of more than Forty Million Dollars (\$40,000,000); repealing all laws, or parts of laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 361, ch. 200.

Art. 3899. 3897 Expense account

(a) At the close of each month of his tenure of office, each officer named herein who is compensated on a fee basis shall make, as part of the report now required by law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office such as stationery, stamps, telephone, premiums on officials' bonds including the cost of surety bonds for his deputies, premium on fire, burglary, theft, robbery insurance protecting public funds, traveling expenses, and other necessary expenses; provided, that in addition to the officers named herein, the county treasurer, county auditor, county road commissioners, county school superintendent, and the hide and animal inspector shall likewise make a report on the premiums on officials' bonds, including the cost of surety bonds for any deputies, and said premiums

shall be subject to payment out of the fees of said office, as herein otherwise provided for the officers named; and provided further that if any of the officers so designated are on a salary rather than a fee basis, then all such bond premiums for officers and their deputies shall be paid from the General Fund of the county. The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating the necessity therefor, purchase equipment for a Bureau of Criminal Identification such as cameras, fingerprint cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas, and other equipment in keeping with the system in use by the Department of Public Safety of this State or the United States Department of Justice and/or Bureau of Criminal Identification. If such expenses be incurred in connection with any particular case, such statement shall name such case. Such expense account shall be subject to the audit of the county auditor, if any, otherwise by the Commissioners Court; and if it appears that any item of such expense was not incurred by such officer or such item was not a necessary expense of office, such item shall be by such auditor or court rejected, in which case the collections of such item may be adjudicated in any court of competent jurisdiction. The amount of salaries paid to assistants and deputies shall also be clearly shown by such officer, giving the name, position, and amount paid each; and in no event shall any officer show any greater amount than actually paid any such assistant or deputy. The amount of such expenses, together with the amount of salaries paid to assistants, deputies, and clerks, shall be paid out of the fees earned by such officer. The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of his official duties, which, if purchased by the county, shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county, and they shall be and remain the property of the county. The expense of maintenance, depreciation, and operation of such automobiles as may be allowed, whether purchased by the county or owned by the sheriff or his deputies personally, shall be paid for by the sheriff and the amount thereof shall be reported by the sheriff, on the report above mentioned, in the same manner as herein provided for other expenses. As amended, Acts 1941, 47th Leg., p. 1390, ch. 629, § 1.

(b). Each officer named in this Act, where he receives a salary as compensation for his services, shall be entitled and permitted to purchase or charge to his county all reasonable expenses necessary in the proper and legal conduct of his office, premiums on officials' bonds, premiums on fire, burglary, theft, robbery insurance protecting public funds, and including the cost of surety bonds for his deputies, provided that expenses incurred for premiums on officials' bonds for the county treasurer, county auditor, county road commissioners, county school superintendent, and the hide and animal inspector, including the cost of surety bonds for any deputies of any such officers, may be also included, and such expenses to be passed on, predetermined and allowed in the time and amount, as nearly as possible, by the Commissioners Court once each month for the ensuing month, upon the application by each officer, stating the kind, probable amount of expenditure and the necessity for the expenses of his office for such ensuing month, which application shall, before presentation to said court, first be endorsed by the county auditor, if any, otherwise the county treasurer, only as to whether funds are available for payment of such expenses. The Commissioners Court of the county of the sheriff's

residence may, upon the written and sworn application of the sheriff stating the necessity therefor, purchase equipment for a Bureau of Criminal Identification, such as cameras, fingerprint cards, inks, chemicals; microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas and other equipment, in keeping with the system in use with the Department of Public Safety of this State, or the United States Department of Justice and/or Bureau of Criminal Identification.

Such purchases shall be made by each officer, when allowed, only by requisition in manner provided by the county auditor, if any, otherwise by the Commissioners Court. Each officer, shall, at the close of each month of his tenure of office, make an itemized and sworn report of all approved expenses incurred by him and charged to his county, accompanying such report with invoices covering such purchases and requisitions issued by him in support of such report. If such expenses be incurred in connection with any particular case, such report shall name such case. Such report, invoices, and requisitions shall be subject to the audit of the county auditor, if any, otherwise by the Commissioners Court, and if it appears that any item was not incurred by such officer, or that such item was not a necessary or legal expense of such office, or purchased upon proper requisition, such item shall be by said county auditor or court rejected, in which case the payment of such item may be adjudicated in any court of competent jurisdiction. All such approved claims and accounts shall be paid from the Officers Salary Fund unless otherwise provided herein.

The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of official business, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county and they shall be reported and paid in the same manner as herein provided for other expenses.

Where the automobile or automobiles are owned by the Sheriff or his deputies, they shall be allowed four (4) cents for each mile traveled in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation, and operation of such automobile. Such mileage shall be reported and paid in the same manner prescribed for other allowable expenses under the provisions of this section. No automobile shall be allowed for any Deputy Sheriff except those regularly employed in outside work. It shall be the duty of the County Auditor, if any, otherwise the Commissioners Court, to check the speedometer reading of each of said automobiles, owned by the county once each month and to keep a public record thereof; no automobile owned by the county shall be used for any private purpose. As amended Acts 1941, 47th Leg., p. 1390, ch. 629, § 2.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Allowance to sheriffs for expenses in returning fugitives from justice, see Vernon's Rev.Crim.Code Proc. art. 1030a.

Counties over 500,000, expenses of office of district, county and precinct officers, see Article 3912e-4.

Art. 3902. 3903 Deputies, assistants or clerks; appointment; compensation and salaries

1b. In counties having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thou-

sand, seven hundred (24,700) inhabitants, according to the last preceding Federal census, the Commissioners Court may approve the appointment of heads of departments, when necessary, and when additional allowance for salary is deemed necessary, or justified by the Commissioners Court of such counties for heads of departments or Chief Deputies, a sum not to exceed Two Hundred Dollars (\$200) per annum may be allowed, in addition to the regular salary for such heads of departments or Chief Deputies, when such officers shall have previously served the County for not less than three (3) continuous years. Added Acts 1941, 47th Leg., p. 540, ch. 334, § 1.

Filed without the Governor's signature,
May 26, 1941.

Effective May 27, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

8. That in all counties of the State having a population of not less than twenty-four thousand, nine hundred (24,900) inhabitants and not more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, first assistants or chief deputies shall receive a salary not to exceed Two Thousand Dollars (\$2,000) per annum, and other assistant deputies or clerks shall receive salaries not to exceed Seventeen Hundred Dollars (\$1700) each. Added Acts 1941, 47th Leg., p. 153, ch. 114, § 1.

Filed without the Governor's signature,
April 12, 1941.

Effective April 24, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Counties of 135,000 to 190,000

Acts 1941, 47th Leg., p. 434, ch. 267, read as follows:

"Section 1. In all counties having a population of not less than one hundred and thirty-five thousand (135,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, whenever any district, county, or precinct officer shall require the services of deputies, assistants, or clerks in the performance of his duties he shall apply to the County Commissioners Court of his county for authority to appoint such deputies, assistants, or clerks, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions, and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said Court shall make its order authorizing the appointment of such deputies, assistants, and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said Court may be proper; provided that in no case shall the Commissioners Court or any member thereof attempt to influence the

appointment of any person as deputy, assistant, or clerk in any office. Upon the entry of such order the officers applying for such assistants, deputies, or clerks shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The compensation which may be allowed to the deputies, assistants, or clerks above named for their services shall be a reasonable one, not to exceed the following amounts: First assistant or chief deputy Twenty-six Hundred Dollars (\$2600) per annum, heads of departments, other assistants, deputies, or clerks Twenty-three Hundred Dollars (\$2300); first assistants or chief deputies or heads of departments may be allowed, by the Commissioners Court, when in their judgment such allowance is justified, the sum of Two Hundred Dollars (\$200) per annum in addition to the amount herein allowed, when such first assistant or chief deputy or head of department so appointed shall have previously served the county or political subdivision thereof for not less than any two (2) continuous years, provided no heads of departments shall be created except where the persons sought to be appointed shall be in actual charge of some department, with deputies or assistants under his supervision or a department approved by the Court, and only in offices capable of a bona fide subdivision into departments.

"Sec. 2. All laws and parts of laws conflicting with the provisions of Section 1 of this Act are hereby repealed to the extent of such conflict."

Filed without the Governor's signature,
May 12, 1941.

Effective May 21, 1941.

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

Art. 3906. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 140, Vernon's Texas Rules of Civil Procedure.

Art. 3911. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 17, Vernon's Texas Rules of Civil Procedure.

Art. 3912a—1. County judge as budget officer in counties of 7,050 to 7,075; compensation

That the County Judge of each county containing a population of not less than seven thousand and fifty (7,050) and not more than seven thousand and seventy-five (7,075) inhabitants, according to the last preceding Federal Census, shall receive and be paid out of the General Fund of such counties the sum of Three Hundred Dollars (\$300) per annum, payable in equal monthly installments, as compensation for his services as budget officer in such counties and said compensation herein provided shall be in addition to all salaries and/or compensations now provided by law for County Judges to receive. Acts 1941, 47th Leg., p. 742, ch. 463, § 1.

Filed without the Governor's signature, June 7, 1941.

Effective Jan. 1, 1943.

Section 2 of the Act of 1941 repealed all conflicting laws Special or General and parts of laws. Section 3 makes the Act effective Jan. 1, 1943. Section 4 is the emergency.

Title of Act:

An Act relating to the payment to the County Judges in counties of not less than seven thousand and fifty (7,050) and not more than seven thousand and seventy-

five (7,075) population, according to the last preceding Federal Census, a compensation for the services of such County Judges as budget officers of the counties; providing for the payment of such compensation out of the General Fund of such counties in addition to any and all compensation now provided by law to be paid such County Judges; repealing all laws or parts of laws, Special and General, in conflict or inconsistent with the provisions of this Act; providing effective date of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 742, ch. 463.

[Art. 3912e. Method of compensation of district and certain designated county and precinct officers]

[Commissioners' Court to fix salaries of certain officers]

Sec. 13.

(d). The Commissioners' Courts of the respective counties of Texas having a population of more than one hundred two thousand and one (102,001) and less than one hundred ten thousand (110,000), according to the last preceding Federal Census are hereby authorized to fix the salary of the County Treasurer of their particular county at any sum not less than Six Hundred (\$600.00) Dollars per year, nor more than Twenty-seven Hundred (\$2,700.00) Dollars per year. In the determination of such salary the Court will consider the fees received by such office during the preceding fiscal year, the expenses of that office during the same period, and the relative duties incumbent on such office; and shall in their discretion affix to such office such compensation as they deem just and necessary for the services rendered, within the limits hereinbefore provided. Added Acts 1941, 47th Leg., p. 74, ch. 61, § 1.

Filed without the Governor's signature, March 14, 1941.

Effective Jan. 1, 1943.

Section 2 of the Act of 1941 read as follows: "All laws or parts of laws in conflict with the provisions of this Act are

hereby repealed to the extent of such conflict; and this Act shall be interpreted as an express modification of Chapter 465, General and Special Laws, 44th Legisla-

ture, Second Called Session, to the extent provided."

Section 3 provided that the Act should take effect January 1, 1943.

[County judge's salary in counties of 24,500 to 24,700]

Sec. 15a. Provided further that in all counties having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700), according to the last preceding Federal Census, and which have an assessed valuation of not less than Twenty Million Dollars (\$20,000,000), according to the last preceding approved tax rolls in such counties, the county judge's salary is hereby fixed at Three Thousand, Four Hundred and Twenty Dollars (\$3,420). Added Acts 1941, 47th Leg., p. 543, ch. 338, § 1.

Filed without the Governor's signature, May 26, 1941.

Effective May 27, 1941.

Section 2 of the mandatory Act of 1941 repealed all conflicting laws and parts of

laws, in so far as they conflict with this law. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

[Provision applicable to counties in excess of 190,000]

Sec. 19.

(f-1) The District Attorney or Criminal District Attorney in any county having a population of not less than three hundred and twenty-five thousand (325,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census, shall be authorized to appoint nine (9) assistants and fix their salaries at a rate not to exceed the following amounts: two (2) of said assistants, Four Thousand, Five Hundred Dollars (\$4,500) per annum each; two (2) of said assistants, Four Thousand, Two Hundred Dollars (\$4,200) per annum each; one of said assistants, Three Thousand, Six Hundred Dollars (\$3,600) per annum; one of said assistants, Three Thousand Dollars (\$3,000) per annum; and three (3) of said assistants, Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ three (3) investigators and fix their salaries at not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum each. He may employ two (2) court reporters and fix their salaries as follows: one of said court reporters at a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, and one of said court reporters at a salary not to exceed Three Thousand Dollars (\$3,000) per annum. He may employ one combination stenographer and accountant and fix the salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ one stenographer and fix the salary at not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. He may employ one chief civil clerk and fix the salary at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum. He may employ two (2) abstracters and fix their salaries at not to exceed Two Thousand, One Hundred Dollars (\$2,100) per annum each. All such salaries above mentioned shall be payable from the Officers Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers Salary Fund.

Should a District Attorney or Criminal District Attorney in any county having a population of not less than three hundred and twenty-five thousand (325,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census, be of the opinion that the number of assistants, stenographers, in-

investigators, or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and consent of the Commissioners Court he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: one additional assistant to receive a salary not to exceed Four Thousand, Two Hundred and Fifty Dollars (\$4,250) per annum; one additional assistant or employee to receive a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum; one additional assistant to receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum; and two (2) additional assistants to receive a salary not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) per annum each. He may employ one additional assistant or employee at a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum. He may employ one stenographer at a salary not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum. He may employ one stenographer at a salary not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. He may employ one civil clerk at a salary not to exceed One Thousand, Five Hundred Dollars (\$1,500) per annum. Such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners Court of the county in which such appointments are made, these salaries being payable from the Officers Salary Fund, if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers Salary Fund. In addition to the salary herein provided for investigators for District Attorneys and Criminal District Attorneys, each of such investigators shall be allowed a sum not to exceed Fifty Dollars (\$50) per month, for repair and maintenance expense of an automobile used by said investigator in the investigation of crime, said allowances to be paid monthly by such county by warrant drawn upon said Officers Salary Fund upon the written claim of such investigator showing that said automobile was in official use, and such claim shall bear the approval of the District Attorney or Criminal District Attorney before being paid. Added Acts 1941, 47th Leg., p. 1309, ch. 585, § 1.

Filed without the Governor's signature,
July 1, 1941.

Effective July 2, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

[Provisions applicable in counties in excess of 190,000; assistants to District Clerks in counties of 290,000 to 390,000]

(h-3): In any county of this State with a population of two hundred and ninety thousand (290,000) inhabitants and over, and less than three hundred and ninety thousand (390,000) inhabitants, according to the last preceding Federal Census, the District Clerk may make written application to the Commissioners Court of said county, subject to the approval by the Court, for the appointment of assistants and/or deputies and the salaries to be paid same, setting forth the number of assistants and/or deputies sought to be appointed and the salaries to be paid each, such salaries to be not more than allowed by law in Senate Bill 5, Acts of the Forty-fourth Legislature, Second Called Session,¹ and amendments thereto.

The Commissioners Court, upon approval of the application, shall thereupon order the amount approved to be paid from the General Fund, officers' salary fund, or any other fund of the county, as herein provided, and said Commissioners Court shall appropriate adequate funds for that

purpose. Assistants to the District Clerk shall be paid from the General Fund of the county or the officers' salary fund, provided the Commissioners Court may authorize that the Court clerks, the index clerk, and the clerk handling the jury in each such county can be paid either from the General Fund or the Jury Fund of said county; and be it further provided that the per capita payments made by the State to the counties in lieu of felony fees formerly paid to the officers shall be apportioned by the County Auditor, as follows: after paying the fees to precinct officers rendering services in felony cases, pay to the District Clerk and the Sheriff the same amount each officer earned in felony fees during the year 1935, and the remaining balance shall be paid to the District Attorney or Criminal District Attorney, as the case may be.

The deputies appointed by the District Clerk shall be authorized to discharge such duties as may be assigned to them by the District Clerk and provided for by law, and all of said assistants shall take the oath of office for faithful performance of duty. The District Clerk shall have the right to discontinue the services of any assistants employed in accordance with the provisions of this Article, but no assistant shall be employed except in the manner herein provided. In like manner, the Commissioners Court may authorize the appointment of additional assistants when, in the judgment of the District Clerk, a necessity exists therefor. Added Acts 1941, 47th Leg., p. 240, ch. 169, § 1.

¹ Articles 3896-3899, 3901, 3902, 3912e.

Filed without the Governor's signature, April 23, 1941.

Effective May 5, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws or parts of laws. Section 3 provided that if any part or section of this Act should be held unconstitutional, it should not in anywise affect the remaining part of same. Sec-

tion 4 declared an emergency and provided that the Act should take effect from and after its passage.

Computation and fixing of salaries in counties of 100,000 to 190,000, see art. 3912e-6.

Counties over 500,000, expenses of office of district, county and precinct officers, see article 3912e-4.

Art. 3912e-4. District, County and Precinct officers in counties of over 500,000, payment of assistants and expenses of conduct of offices

Section 1. Each District, County and Precinct officer in counties having a population of more than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, receiving an annual salary as compensation, shall be entitled, subject to the provisions of Section 19 of Chapter 465 of the Acts of the 44th Legislature, First Called Session,¹ generally known as the "Fee Bill," and subject to the amendments to said Act subsequently adopted, to issue warrants against the salary fund created for his office in payment of the services of deputies, assistants, clerks, stenographers and investigators, for such amounts as said employees may be entitled to receive for services performed under their authorizations of employment. And such officers shall be entitled to file claims for and issue warrants in payment of all actual and necessary expenses incurred by them in the conduct of their offices, such as stationery, stamps, telephone, traveling expenses, premiums on official bonds of themselves and of their deputies, and premiums on burglary, theft and robbery insurance protecting public funds, and other necessary expenses. If such expenses be incurred in connection with any particular case, such claims shall state such case. All such claims shall be subject to the audit of the County Auditor, and if it appears that any item of such expense was not incurred by such officer, or such item was not a necessary expense of office, or such claim is incorrect or unlawful, such item shall be by such Auditor rejected, in which case

the correctness, legality or necessity of such item may be adjudicated in any court of competent jurisdiction.

Sec. 2. In addition to any other sums now provided for by law, the District Attorney or Criminal District Attorney in each of the counties affected hereby may be allowed, by order of the Commissioners' Court of his county, such amount as said Court may deem necessary to pay for or aid in the proper administration of the duties of his office, which sum may be expended in aid of the discharge of the duties of his office for any purposes, whether similar or dissimilar to the type of expense authorized by Article 3899 of the Revised Civil Statutes, as amended by Chapter 37 of the Acts of the First Called Session of the 45th Legislature, and whether for a purpose similar or dissimilar to those authorized by the preceding Section of this Act; provided further that all sums expended under the authority of this Section of this Act shall not exceed Two Thousand, Five Hundred (\$2,500.00) Dollars in any one calendar year; and provided further that such amounts as may be authorized hereunder shall be allowed by said Court upon written application of such District Attorney or Criminal District Attorney showing the necessity therefor, and the Commissioners' Court may require any other evidence that it may deem necessary to show the necessity for any such expenditures, and its judgment in allowing or refusing to allow any such expenditure shall be final; provided no payment for any such expenditure shall be made except upon an itemized sworn statement of such expense filed in the manner provided for by Section 19 of Chapter 465 of the Acts of the 44th Legislature,¹ generally known as the "Fee Bill," and all such expenditures and the accounts therefor shall be subject to approval of the County Auditor and audit by such Auditor as in the case of other claims and expenditures.

Sec. 3. In addition to the other sums provided for by law and allowed by this Act, the District Attorney or Criminal District Attorney may expend such sums as in his opinion may be reasonably necessary to aid the Grand Juries of this County in the investigation of crime, provided that the expenditures authorized by this Section shall never exceed Two Thousand, Five Hundred (\$2,500.00) Dollars in any one calendar year, and the same shall be made only when three-fourths (3/4) of the members of the Grand Jury to be aided thereby and a Judge of a District Court having general criminal jurisdiction in the county shall join the District Attorney in certifying to the necessity therefor. In making any expenditure hereby authorized, neither the District Attorney nor the Grand Jury shall be required, in order to obtain necessary warrants against the county funds, to state beforehand the case or cases being investigated, nor to disclose the identity of the person or persons suspected to be guilty, and such warrants shall issue, subject to the above limitations; provided, that from time to time, additional sums may be requested and allowed in like manner and subject to the same limitations; and provided further, that such District Attorney and his bondsmen shall be and remain liable for any illegal expenditures of such funds; and provided that within twelve (12) months after the termination of the Grand Jury's investigation of the matter from which said funds were expended, the District Attorney or Criminal District Attorney expending the same shall duly account under oath in writing for the same by proper accounts, vouchers and receipts to the County Auditor in such form as said Auditor shall require, and the County Auditor shall, upon the receipt of any such accounts, vouchers or receipts, keep secret all matters pertaining to the same for twelve (12) months after his receipt thereof. Nothing herein contained shall be construed as authorizing any Grand

Jury to investigate any matter that it may not by law now be authorized to investigate.

Sec. 4. Nothing herein contained shall be construed as repealing any other Act now in effect authorizing the officers hereby affected to make expenditures of public funds in connection with their respective offices for purposes other than those herein named, but this law shall be cumulative of all such laws. Acts 1941, 47th Leg., p. 174, ch. 127.

¹ Article 3912e, § 19.

Filed without the Governor's signature April 16, 1941.

Effective April 28, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize and regulate the ex-

penditures for public purposes from county funds of designated officers in counties having a population of more than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census; providing that this Act is cumulative of certain similar laws and does not repeal the same; and declaring an emergency. Acts 1941, 47th Leg., p. 174, ch. 127.

Art. 3912e—5. Additional salary to county judge in counties of 105,000 to 125,000 as member of Juvenile Board

In all counties having a population of not less than one hundred five thousand (105,000) nor more than one hundred twenty-five thousand (125,000) according to the last preceding or any future Federal Census, the County Judge shall receive the sum of Fifteen Hundred (\$1500.00) Dollars annually in addition to his salary now or hereafter provided by law, such addition in salary to be paid such County Judge as a member of the Juvenile Board provided by Article 5139, Revised Civil Statutes, 1925; such additional salary shall be paid in twelve (12) equal installments out of the General Funds of such county, upon the order of the Commissioners' Court. Acts 1941, 47th Leg., p. 549, ch. 345, § 1.

Filed without the Governor's signature, May 28, 1941.

Effective May 28, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that in counties having a population of not less than one hundred five thousand (105,000) nor more than one

hundred twenty-five thousand (125,000) according to the last preceding or any future Federal Census, the County Judge shall receive an additional annual salary of Fifteen Hundred (\$1500.00) Dollars for serving as a member of the Juvenile Board; providing that such additional salary shall be paid in twelve (12) equal installments out of the General Funds of the county and upon order of the Commissioners' Court; and declaring an emergency. Acts 1941, 47th Leg., p. 549, ch. 345.

Art. 3912e—6. Salaries of officers in counties of 100,000 to 190,000 to be computed at maximum allowable under laws existing August 24, 1935

The Commissioners Courts in all counties of Texas having a population of not less than one hundred thousand (100,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, in fixing the annual salary that shall be paid an officer named in Section 13 of Chapter 465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary is determined in compliance with the laws which existed on August 24, 1935, and is based upon population, shall compute and fix the salary of each of such officers at the maximum amount which could have been paid each of such officers under the laws existing on August 24, 1935, according to the Federal Census of 1940 and thereafter according to the last preceding Federal Census; provided the Com-

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

Commissioners Courts in said counties are authorized to amend the present order of said Court fixing the maximum salary of said officers for the fiscal year 1941 from and after the effective date of this Act for the balance of said fiscal year, according to the Federal Census of 1940, and thereafter according to the last preceding Federal Census. Acts 1941, 47th Leg., p. 597, ch. 366, § 1.

Passed over the Governor's veto, May 26, 1941.

Filed without the Governor's signature, May 27, 1941.

Effective May 26, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Courts in all counties having a population of not less than one hundred thousand (100,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, to determine the maximum annual

salary to be paid an officer named in Section 13, of Chapter 465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary was based upon population under the laws existing on August 24, 1935, on the basis of the population of said county, according to the last preceding Federal Census; provided that the Commissioners Courts in said counties are authorized to fix the maximum annual salary for the balance of the fiscal year 1941 after the effective date of this Act on the basis of the Federal Census of 1940 and thereafter according to the last preceding Federal Census; and declaring an emergency. Acts 1941, 47th Leg., p. 597, ch. 366.

Art. 3912e—7. Salaries of certain officers in counties of 100,000 to 190,000

The Commissioners Courts in all counties of Texas having a population of not less than one hundred thousand (100,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, in fixing the annual salary that shall be paid an officer named in Section 13 of Chapter 465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary is determined in compliance with the laws which existed on August 24, 1935, and is based upon population, shall compute and fix the salary of each of such officers at the maximum amount which could have been paid each of such officers under the laws existing on August 24, 1935, according to the Federal Census of 1940 and thereafter according to the last preceding Federal Census; provided the Commissioners Courts in said counties are authorized to amend the present order of said Court fixing the maximum salary of said officers for the fiscal year 1941 from and after the effective date of this Act for the balance of said fiscal year, according to the Federal Census of 1940 and thereafter according to the last preceding Federal Census. Acts 1941, 47th Leg., p. 1326, ch. 597, § 1.

Filed without the Governor's signature, July 3, 1941.

Effective July 5, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that the Commissioners Courts in all counties having a population of not less than one hundred thousand (100,000) and not more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, shall compute and fix the maximum annual salary to be paid an officer named in Section 13 of Chapter

465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary was based upon population under the laws existing on August 24, 1935, on the basis of the population of said county, according to the last preceding Federal Census; provided that the Commissioners Courts in said counties are authorized to fix the maximum annual salary for the balance of the fiscal year 1941 after the effective date of this Act on the basis of the Federal Census of 1940 and thereafter according to the last preceding Federal Census; and declaring an emergency. Acts 1941, 47th Leg., p. 1326, ch. 597.

Art. 3912f—3. Salaries of sheriffs and deputies in counties of 25,600 to 25,889 in which there are no district attorneys

Section 1. In all counties of the State of Texas having a population of not less than twenty-five thousand, six hundred (25,600) and not more than twenty-five thousand, eight hundred and eighty-nine (25,889), according to the last Federal Census, in which there are no district attorneys, the Commissioners Courts of such counties shall, from and after effective date of this Act, compensate the sheriffs of such counties upon an annual salary basis and shall fix the salaries of such sheriffs in such counties at not less than Thirty-three Hundred Dollars (\$3300) and not more than Thirty-six Hundred Dollars (\$3600) per annum, payable in twelve (12) equal monthly installments, out of the Officers Salary Fund of such counties, by warrant drawn upon said fund.

Sec. 2. The sheriffs of such counties are hereby authorized and empowered to appoint at least one deputy sheriff and one special deputy sheriff; the powers and duties of the special deputy sheriff shall be the same as those of other deputy sheriffs and, in addition, his special duty shall be to assist such sheriffs in all matters arising in and connected with the efficient conduct of said office, including the finger printing, photography work, and investigation work of said office. The Commissioners Courts of such counties shall, from and after effective date of this Act, compensate such deputy sheriffs and such special deputy sheriffs upon an annual salary basis and shall fix the salary of such special deputy sheriffs at not exceeding One Thousand, Two Hundred Dollars (\$1,200) per annum, payable in twelve (12) equal monthly installments out of the Officers Salary Fund in such counties by warrant drawn upon said fund by the Commissioners Courts. The compensation of the deputy sheriffs shall likewise be fixed at an annual salary of not exceeding One Thousand Dollars (\$1,000), payable in twelve (12) equal monthly installments in like manner as provided for the payment of the salaries of special deputy sheriffs, hereinabove set out.

Sec. 3. This Act is not intended and shall not be considered or construed as repealing any law or laws now on the statute books except those in conflict herewith and to the extent of the conflict only, but in other respects shall be construed as being cumulative thereof. Acts 1941, 47th Leg., p. 546, ch. 342.

Filed without the Governor's signature, May 26, 1941.

Effective May 27, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act fixing the compensation of sheriffs in all counties of the State of Texas having a population of not less than twenty-five thousand, six hundred (25,600) and not more than twenty-five thousand, eight hundred and eighty-nine (25,889), accord-

ing to the last Federal Census, in which there are no district attorneys; providing for the appointment by such sheriffs of such counties of at least one special deputy sheriff and one deputy sheriff; prescribing the powers and duties of such deputies; fixing the compensation therefor; providing mode and manner of payment of such salaries; providing that this Act shall be cumulative of all other Acts not in conflict herewith; repealing all laws and parts of laws in conflict to the extent of the conflict only; and declaring an emergency. Acts 1941, 47th Leg., p. 546, ch. 342.

CHAPTER TWO—ENUMERATION

Art.		Art.	
3928a.	Disposition of and accounting for fees received by District Clerk [New].	3936c.	Salary of constable and justice of the peace in counties of 25,500 to 26,200 having military camp and city of 14,000 to 14,500 [New].

Art. 3927. [3855] [2453] [2389] District clerk

"The Clerks of the District Courts shall receive the following fees in civil cases for their services:

Certificate and seal on any copy	\$.50
Each writ of citation .....	.75
Each copy of citation .....	.50
Docketing each cause, to be charged but once .....	.20
Every other order, judgment or decree, not otherwise provided for .....	.75
Docketing each rule or motion, including rule for cost .....	.15
Filing each paper .....	.15
Entering appearance of each party to a suit, to be charged but once .....	.15
Each continuance .....	.12
Swearing each witness .....	.10
Administering an oath, affirmation, or taking affidavit, certificate and seal; provided, that he shall only be allowed pay for one certificate to each witness claim for attendance in behalf of plaintiff, and one each in behalf of defendant, at any one term of court .....	.50
Each subpoena issued .....	.25
Each additional name inserted in subpoena .....	.15
Approving bond (except for costs)	1.50
Swearing and impaneling a jury .....	.35
Receiving and recording a verdict of a jury .....	.35
Each commission to take depositions .....	.75
Taking depositions, each 100 words .....	.15
Issuing copies of interrogatories with certificate and seal, per 100 words .....	.15
Each final judgment	1.00
Where judgment exceeds 300 words, an additional fee for each 100 words in excess of 300 words .....	.15
For each order of sale	1.00
For each execution .....	.75
For each writ of possession or restitution .....	.75
For each injunction writ .....	.75
Each copy of injunction writ .....	.75
For every other writ not otherwise provided for .....	.75
For each copy of writ not otherwise provided for .....	.50
Recording return of any writ, including the return on all writs, except subpoenas .....	.50
Each certificate to any facts contained in his office .....	.75
Making out and transmitting the records and proceedings in a cause to any inferior court, for each 100 words .....	.10
Making out and transmitting mandate or judgment of the District Court upon appeal from the County Court	1.00
Filing a record in a cause appealed to the District Court ..	.50

Transcribing, comparing and verifying record books of his office, payable out of the County Treasury, upon warrants issued upon the order of Commissioners' Court, for each 100 words .....	.15
Making transcript of records and papers in any cause upon appeal, or writ of error, with certificate and seal, for each 100 words .....	.15
Making copy of all records, judgments, orders, petitions, pleadings, or papers on file in his office, whether to be certified or not, for any party applying for same, for each 100 words .....	.15
Taxing the bill of costs in any case with copy of same.....	.25
Filing and recording the declaration of intention to be a citizen of the United States	2.00
Issuing certificate of naturalization	2.50"
As amended Acts 1941, 47th Leg., p. 641, ch. 387, § 1.	

Approved May 29, 1941. Section 4 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.
 Effective 90 days after July 3, 1941, date of adjournment.

Art. 3928. 3856-7-8 Other fees of district clerk

The District Clerk shall also receive the following fees:

1. Whenever in any suit a certified or uncertified copy of any petition or any other instrument, judgment or order is necessary in the District Court, it shall be lawful for the plaintiff or defendant to prepare such copy and submit the same to the District Clerk, who shall be entitled to a fee of Ten (10¢) Cents per 300 words to the page, for his services in comparing same with the original. If a certified copy is necessary, he shall attach his certificate of true copy, and for such service he shall receive Fifty (50¢) Cents for each certificate and seal. In no event shall the fee be less than Twenty-five (25¢) Cents for the copy, with or without certificate and seal.
2. In matters relating to estates of deceased persons and minors, when the same are transacted in the District Court, he shall receive the same fees that are allowed therefor to County Clerks.
3. For the care and preservation of the records of his office, keeping the necessary indexes, and other labor of the like kind, to be paid out of the County Treasury on the order of the Commissioners' Court, such sum as said Court shall determine. As amended Acts 1941, 47th Leg., p. 641, ch. 387, § 2.

Approved May 29, 1941. Emergency section. See note under art. 3927, ante.
 Effective 90 days after July 3, 1941, date of adjournment.

Art. 3928a. Disposition of and accounting for fees received by District Clerk

In those counties where the District Clerk is compensated on a fee basis, the Clerk shall receive such fees and account for such as fees of office; and in those counties where the District Clerk is compensated on a salary basis, such fees shall be collected and paid into the officer's salary fund as now or hereafter provided by law. Acts 1941, 47th Leg., p. 641, ch. 387, § 3.

Approved May 29, 1941. Emergency section. See note under art. 3927, ante.
 Effective 90 days after July 3, 1941, date of adjournment.

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

Art. 3936c. Salary of constable and justice of the peace in counties of 25,500 to 26,200 having military camp and city of 14,000 to 14,500

From and after the effective date of this Act in all counties in this State having a population of not less than twenty-five thousand, five hundred (25,500) and not more than twenty-six thousand, two hundred (26,200), and containing a city having a population of not less than fourteen thousand (14,000) and not more than fourteen thousand, five hundred (14,500), according to the last preceding Federal Census, within the boundaries of which is located a military camp, the salary of the constable and justice of peace shall each be not less than Twenty-seven Hundred Dollars (\$2700) plus one-third of all fees collected above such amount. The salary of each shall be paid in the manner and in accordance with existing laws governing the office of justice of peace and constable. Acts 1941, 47th Leg., p. 440, ch. 273, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 21, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for a more adequate and equitable salary for constable and justice of peace in all counties in this State

having a population of not less than twenty-five thousand, five hundred (25,500) and not more than twenty-six thousand, two hundred (26,200), and containing a city having a population of not less than fourteen thousand (14,000) and not more than fourteen thousand, five hundred (14,500), according to the last preceding Federal Census, in which is located a military camp; providing manner in which same shall be paid; and declaring an emergency. Acts 1941, 47th Leg., p. 440, ch. 273.

Art. 3943. 3875, 2469, 2405 Treasurer: commissions limited

The commissions allowed to any County Treasurer shall not exceed Two Thousand Dollars (\$2,000) annually; provided, that in all counties in which the assessed value of the property of such counties shall be One Hundred Million Dollars (\$100,000,000) or more as shown by the preceding assessment roll, the Treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred Dollars (\$2,700) annually; provided, that in all counties having a population of not less than seventy-five thousand (75,000) inhabitants, and not more than eighty thousand (80,000) inhabitants, according to the last preceding Federal Census, in which counties, road or road and bridge bonds in the amount of Six Million Dollars (\$6,000,000) or more and flood protection bonds in the amount of One Million Dollars (\$1,000,000) or more have been voted by the people, the Treasurers thereof shall receive as their commissions a sum not to exceed Two Thousand, Seven Hundred Dollars (\$2,700) annually; and, shall be allowed an assistant at a salary not to exceed One Thousand, Two Hundred Dollars (\$1,200) annually; provided, that in all counties having a population of one hundred and fifty thousand (150,000) inhabitants or more, and less than two hundred and ten thousand (210,000) inhabitants, according to the last preceding Federal Census, the Treasurers thereof shall receive as their commissions a sum not exceeding Two Thousand, Seven Hundred Dollars (\$2,700) annually, and shall be allowed an assistant at a salary not to exceed One Thousand Dollars (\$1,000) per annum; provided, that in all counties containing a population of not less than forty-two thousand, one hundred (42,100) inhabitants nor more than forty-two thousand, two hundred and fifty (42,250) inhabitants, according to the last preceding Federal Census, and that in all counties containing a population of not less than forty-five thousand (45,000) inhabitants nor more than forty-seven thousand (47,000) inhabitants, according to the last preceding Federal Census, the commissions and compensation to be paid to the

County Treasurers in said Counties shall be Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) equal monthly installments, and such compensation shall be fixed by the Commissioners Courts of said Counties. As amended Acts 1941, 47th Leg., p. 527, ch. 323, § 1.

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Acts 1941, 47th Leg., p. 527, ch. 323, §§ 2-4 read as follows:

"Sec. 2. This Act shall be cumulative of the General Laws of this State pertaining to commissions and compensation to County Treasurers when not in conflict with the provisions of this Act, but in case of such conflict herewith, then the provisions of this Act shall be effective and shall take precedence and control.

"Sec. 3. All laws and parts of laws in conflict herewith are hereby specifically repealed only in so far as such laws or parts of such laws are in conflict with the provisions of this Act.

"Sec. 4. In the event any section, parts of sections, subdivision, paragraph, phrase, sentence, or word, of this Act shall be declared unconstitutional, or invalid, or inoperative, then such holding shall not affect the validity of the remaining sections and portions of this Act, and such remaining sections and portions of this Act shall remain in full force and effect; and, it is hereby declared to be the policy and intent of the Legislature to enact the valid portions of this Act, notwithstanding any invalid portion or portions of this Act."

Section 5 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 63—FIRE ESCAPES

Art. 3955. Owner to provide

The owner of each building, which is or may be constructed within this State, three or more stories in height or in case of schoolhouses two or more stories in height, constructed, used, or intended to be used in whole or in part as any of the following buildings, shall provide and equip such building with at least one adequate fire escape, and such additional fire escapes, as provided in the three succeeding Articles. As amended Acts 1941, 47th Leg., p. 659, ch. 401, § 1.

Approved May 31, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 3959. State, county, city and school buildings

Each building which is or may be constructed within this State of three or more stories in height, or in case of a schoolhouse two or more stories in height, which is owned by this State, or by any city, county, or school district, and in which building public assemblies are permitted or intended to be permitted, or in which schools of any kind are conducted, or in which sleeping apartments are permitted or intended to be permitted on any floor above the first, shall be provided and equipped with at least one adequate fire escape if the lot area of such building shall not exceed five thousand (5,000) square feet, and one additional adequate fire escape for each five thousand (5,000) square feet, or fraction thereof if such fraction exceeds two thousand (2,000) square feet in excess of the first five thousand (5,000) square feet of lot area. As amended Acts 1941, 47th Leg., p. 659, ch. 401, § 2.

Approved May 31, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Emergency section. See note under art. 3955, ante.

TITLE 64—FORCIBLE ENTRY AND DETAINER

Arts. 3976–3984. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 738–746, Vernon's Texas Rules of Civil Procedure.

Art. 3985. Trial—Judgment of default

Repeal by Rules of Civil Procedure.

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 747, Vernon's Texas Rules of Civil Procedure.

Arts. 3986–3990. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg. p. 201, § 1)

See Rules 748–752, Vernon's Texas Rules of Civil Procedure.

Art. 3991. 3961, 2539, 2460 Judgment by default

Repeal by Rules of Civil Procedure.

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil

Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 753, Vernon's Texas Rules of Civil Procedure.

Art. 3993. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 755, Vernon's Texas Rules of Civil Procedure.

TITLE 66—FREE PASSES, FRANKS AND TRANSPORTATION**Art. 4006. Exceptions**

The preceding Article shall not be held to prevent any steam or electric interurban railway, telegraph company, or chartered transportation company, or sleeping car company, or the receivers or lessees thereof, or persons operating same, or the officers, agents, or employees thereof, from granting or exchanging free passes or free transportation, franks, privileges, substitutes for pay, or other thing prohibited by the provisions of the preceding Article to any of the following named persons: The actual bona fide employees of any such person or corporation, company, association, or the members of their families; persons actually employed on sleeping cars and express cars; newsboys employed on trains; railway mail service employees, and their families; furloughed, pensioned, superannuated employees, and members of their families; the widows of deceased former superannuated and/or pensioned employees; persons who have been disabled or who have become infirm in the service of any such corporation, company, association, or person; the remains of any persons killed or who may have died in the employment of a common carrier; members of the family of persons killed while in the service of any such common carrier; the family or any person who was, for a period of ten (10) years or more, an employee of such common carrier and who died while in the service of the same; ex-employees traveling for the purpose of entering the service of any such common carrier; post office inspectors; the chairman of bona fide members of grievance committees of employees; bona fide custom and immigration inspectors employed by the government; State Health Officer and one assistant; Federal health officers; county health officers; members of the Industrial Accident Board or any employee thereof; State Railroad Commissioners; Secretary of the Railroad Commission; Engineer of the Railroad Commission; Inspector of the Railroad Commission; Auditor of the Railroad Commission; State Game, Fish and Oyster Commissioners and the Executive Secretary and two (2) assistants; government representatives from the Texas fish hatcheries; shipments of fish for free distribution in the waters of this State; the necessary caretakers while en route and return of any shipments of live stock, poultry, fruit, melons, or other perishable produce; trip passes to indigent poor when application therefor is made by any religious or charitable organization; Sisters of Charity, or members of any religious society of like character; any Minister of religion on intrastate trips in this State; any citizen of the State who served in the War between the States of the Union, either on the Confederate side or on the Union side of said War; veterans of the Spanish-American War, and the wife or widow of any such citizen or veteran; veterans of the Texas Ranger force who served the State prior to the year 1900, and their wives or widows; delegates to different farmers' institutes, farmers' congresses, and farmers' union; delegates to State and district firemen's conventions from volunteer fire companies; managers of Young Men's Christian Associations, or other eleemosynary institutions while engaged in charitable work; the officers or employees of industrial fairs; provided that no more than four (4) officers or employees of any one fair or fair association shall receive free passage in any one year; persons injured in wrecks upon the road of any such company immediately after such injury, and the physicians and nurses attending such persons at the time

thereof; persons and property carried in cases of general epidemic, pestilence, or other calamitous visitation at the time thereof or immediately thereafter; United States Marshals and no more than two (2) of the deputies of each such Marshal; State Rangers; the Adjutant General and Assistant Adjutant General of this State; members of the State Militia in uniform and when called into the service of the State; Sheriffs and no more than two (2) of their deputies; Constables and no more than two (2) of their deputies; Chiefs of Police or city marshals, whether elected or appointed; members of the Livestock Sanitary Commission of Texas and their inspectors not to exceed twenty-five (25) in number for any one year; and any other bona fide peace officer when his duty is to execute criminal process; bona fide policemen or firemen in the service of any city or town in Texas when such policemen or firemen are in the discharge of their public duty; but this provision shall not be construed so as to apply to persons holding commissions as special policemen or firemen. As amended Acts 1941, 47th Leg., p. 15, ch. 8, § 1.

Approved and effective Feb. 13, 1941.

Section 2 of the amendatory Act of 1941 repealed all inconsistent laws and parts of laws.

Section 3 reads as follows: "Constitutionality: If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act;

and the Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 67—FISH, OYSTER, SHELL, ETC.

CHAPTER TWO—FISH AND OTHER MARINE LIFE

Art. 4032a. License to fish in fresh waters; fees

Sec. 1. No person who is a nonresident of the State of Texas or who is an alien shall fish in the fresh waters of this State without first having procured from the Game, Fish and Oyster Commission of Texas, or a Deputy Game Warden thereof, or from a County Clerk in Texas, or other legally authorized agent, a license to fish; and no person who is a resident of this State shall fish with artificial lures of any kind in the fresh waters of this State without first having procured from the Game, Fish and Oyster Commission of Texas, or a Deputy Game Warden thereof, or from a County Clerk of Texas, or other legally authorized agent, a license to fish. As amended Acts 1941, 47th Leg., p. 360, ch. 199, § 1.

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 68—GARNISHMENT

Arts. 4078–4083. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 658–663, Vernon's Texas Rules of Civil Procedure.

Art. 4084. 279, 225, 191 Effect of service of writ

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 664, Vernon's Texas Rules of Civil Procedure.

Arts. 4085–4092. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 665–672, Vernon's Texas Rules of Civil Procedure.

Arts. 4094, 4095. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 673, 674, Vernon's Texas Rules of Civil Procedure.

Arts. 4097, 4098. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 675, 676, Vernon's Texas Rules of Civil Procedure.

Arts. 4100, 4101. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 677, 678, Vernon's Texas Rules of Civil Procedure.

TITLE 69—GUARDIAN AND WARD

CHAPTER TWO—COMMENCEMENT OF PROCEEDINGS

Article 4113. 4061-62 Application

A proceeding for the appointment of a guardian shall be begun by written application filed in the County Court of the county having jurisdiction thereof. Any person may make such application. Such application shall state:

1. The name, sex, age and residence of the person for whom the appointment of a guardian is sought.

2. The estate of such person, if any, and the probable value thereof.

3. If the application is for the appointment of a guardian for an adult person, or his estate, or both, then such application shall allege whether or not such person has been adjudged to be a person of unsound mind or an habitual drunkard, and if so, the time when, and the Court by which, such adjudication was had.

4. Such other facts as show the jurisdiction of the Court. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 1.

Approved June 28, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 8 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 4114. 4063, 2570, 2489 Notice

Upon the filing of such application, the Clerk shall issue a notice setting forth that such application has been filed for the guardianship of the person or estate, or both, as the case may be, of the person for whom such guardian is sought, naming such person, and by whom filed; which notice shall cite all persons interested in the welfare of such person to appear at the time and place stated therein, and contest such application if they see proper. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 1.

Effective date. See note under article 4113.

Art. 4116. Personal citation; waiver of service; absentees and non-residents

(1) In addition to posting notice as provided in Article 4115, Revised Civil Statutes of 1925, as amended by Chapter 254, Acts of 1935, minors fourteen (14) years of age or over, persons alleged to be of unsound mind or habitual drunkards, and persons for whom or for whose estates it is alleged to be necessary to have a guardian appointed to receive funds from the State and/or the Federal Government, shall be personally served with citations to appear and answer such application, unless within six (6) months prior to filing such application the adult person, for whom or for whose estate such guardian is sought, shall have been adjudged by a Court of competent jurisdiction in this State, after due notice, to be a person of unsound mind or an habitual drunkard.

(2) Minors over fourteen (14) years of age may, by writing filed with the Clerk, waive the issuance and personal service of such citation, and make choice of a guardian, subject to the Court's approval of such choice.

(3) If a minor or other person, for whose estate the appointment of a guardian is sought, be a resident of but absent from this State, or be a non-resident of this State, the personal service of citation on such person as provided by paragraph (1) hereof, together with a certified copy of the application for such appointment, shall be made in the manner prescribed by Article 2038, Revised Civil Statutes, 1925, for service of the notice therein mentioned, by the persons therein authorized, and return made as therein prescribed; provided, however, that the return day for citation served without this State shall be the first Monday after the expiration of thirty (30) days after the date of service thereof without this State. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 1.

Effective date. See note under article 4113.

Art. 4117. 4067, 2574, 2493 By judge

Whenever it comes to the knowledge of the County Judge that any person whose legal domicile is in his County, or who may be found therein, is a minor, a person of unsound mind or habitual drunkard, and is without a guardian of his person or of his estate within this State, and there is probable cause for the exercise of his jurisdiction, he may cause proper proceedings to be commenced and application made as provided in Article 4113, as amended, for the appointment of a guardian of the person and of such estate, or either; but this Article as amended shall not be construed to repeal or modify Article 4113. Upon the filing of application, process shall be issued and served as provided by Articles 4114, 4115, and 4116 of this Chapter. The return day thereof shall be determined, and shown therein, as provided by Chapter 48, Acts of the First Called Session of the 41st Legislature, as amended by Chapter 123 of the 42nd Legislature. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 1.

Effective date. See note under article 4113.

CHAPTER THREE—APPOINTMENT OF GUARDIANS

1. REGULAR APPOINTMENTS

Art.

4123a. Certificate of head of department, etc., of State or Federal government as prima facie evidence [New].

Art.

4123a—1. Fees or costs; exemption from in cases of receipt of moneys from State or Federal government [New].

1. REGULAR APPOINTMENTS

Art. 4121. 4076, 2583, 2502 Persons entitled to guardianship

In the case of a person of unsound mind, or an habitual drunkard, or a person for whom it is necessary to have a guardian appointed to receive funds or money due from the State and/or Federal Government, the nearest of kin to such person, who is not disqualified, shall be entitled to the guardianship. Where two or more are equally entitled, the guardianship shall be given to one or the other, according to the circumstances, taking into consideration the interest of the ward alone. If such ward have a husband or wife who is not disqualified, such husband or wife shall be entitled to the guardianship in preference to any other person. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 2.

Effective date. See note under article 4113.

Art. 4122. 4078, 2585, 2504 Persons disqualified

The following persons shall not be appointed guardians:

1. Minors, except the father or mother.
2. Persons whose conduct is notoriously bad.
3. Persons of unsound mind.
4. Habitual drunkards.
5. Those who are, themselves, or whose father or mother are, parties to a lawsuit on the result of which the condition of the minor, person of unsound mind, or habitual drunkard, or part of his fortune, may depend.
6. Those who are debtors to the minor, person of unsound mind, or habitual drunkard, unless they discharge the debt prior to such appointment, or who are asserting claim to any property, real or personal, adverse to the person for whom or whose estate the appointment is sought.
7. Those who are unable to read and write the English language.
8. Those who by reason of inexperience or lack of education, or for other good reason, are shown to be incapable of properly and prudently managing and controlling the ward or his estate. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 2.

Effective date. See note under article 4113.

Art. 4123. 4080-81 What facts must appear

At a regular term of the Court, after the issuance and service of process as required by law, the Court may proceed to the appointment of a guardian. Before appointing a guardian, the Court must be satisfied:

1. That the person for whom a guardian is sought to be appointed is either a minor, a person of unsound mind, an habitual drunkard, or a person for whom it is necessary to have a guardian appointed to receive funds or money due such person from the State and/or Federal Government.

2. That the Court has jurisdiction of the case.

3. That the person to be appointed guardian is not disqualified to act as such, and is entitled thereto; or, in case no person who is entitled thereto applies therefor, that the person appointed is a proper person to act as such guardian.

4. That the rights of persons or property are to be protected. All issues herein shall be determined by the Court on hearing, unless a jury is demanded; but it shall not be a prerequisite to such appointment that there has been a jury trial, verdict and judgment that the person is of unsound mind, or is an habitual drunkard, nor is such person required to be present at the trial.

5. If, within six (6) months prior to the filing of application for the appointment of a guardian of the estate of a person alleged to be of unsound mind or an habitual drunkard, such person by appropriate proceedings in a Court of competent jurisdiction in another State or territory of the United States, or of the District of Columbia, after personal service of process therein within such other jurisdiction, has been adjudged therein to be a person of unsound mind or habitual drunkard, the Court may appoint a guardian of such person's estate situated within this State, after issuance and service of notice as required by Articles 4114, 4115, and 4116, as amended, the same as if

such person had been adjudged by a Court of this State to be a person of unsound mind or an habitual drunkard.

6. If the legal domicile of such person be in this State, or if he shall have been served within this State with citation, the Court may also appoint a guardian of his person upon due application therefor.

The remedy herein provided is cumulative of that provided in Chapter 12 hereof, for the guardianship of persons of unsound mind and habitual drunkards, and may be resorted to without invoking the latter remedy. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 2.

Effective date. See note under article 4113.

Art. 4123a. Certificate of head of department, etc., of State or Federal government as prima facie evidence

When a petition is filed for the appointment of a guardian for a person for whom it is necessary to have a guardian appointed to receive funds or money from the State and/or Federal Government, a certificate of the executive head, or his representative of the bureau, department, or agency through which such funds are to be paid, to the effect that the appointment of a guardian is a condition precedent to the payment of any moneys due such persons, shall be prima facie evidence of the necessity for such appointment. Acts 1941, 47th Leg., p. 867, ch. 541, § 6.

Effective date. See note under article 4113.

Art. 4123a—1. Fees or costs; exemption from in cases of receipt of moneys from State or Federal government

Whenever a guardian is appointed for the purpose of enabling a person to receive not more than Forty (\$40.00) Dollars a month from the State and/or Federal Government, the Court may, in its discretion, order that no costs or fees shall be charged in connection with the proceeding. Acts 1941, 47th Leg., p. 867, ch. 541, § 7.

Effective date. See note under article 4113.

Art. 4128. 4086-87 Term of appointment

The guardian of a minor continues in office unless discharged according to law, until the minor dies or becomes twenty-one (21) years of age, or, being a female, marries. The guardian of a person of unsound mind, or of an habitual drunkard, shall continue as such, unless sooner discharged according to law, until the ward shall die or be restored to sound mind or to sober habits. The guardian of a person for whom it is necessary to have a guardian appointed to receive funds or money due from the State and/or Federal Government shall continue as such, unless sooner discharged according to law, until the ward shall die or the necessity for having such guardian no longer exists. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 3.

Effective date. See note under article 4113.

CHAPTER EIGHT—SALES

1. MODE

Art. 4201a. Repealed. Acts 1941, 47th Leg., p. 658, ch. 399, § 1.

Approved and effective May 31, 1941.

Art. 4203. Notice of sale of real estate

The time and place of making a public sale of real estate by a guardian under an order of the Court shall be advertised by the officer by having notice thereof published in the English language once a week for three consecutive weeks preceding such sale in some newspaper published in the county where the land is situated. The first of said publications shall appear not less than twenty (20) days immediately preceding the day of sale; said notice shall contain a statement of the authority by virtue of which the sale is to be made, and the time and place of sale. It shall also contain a brief description of the property to be sold, the number of acres of original survey, locality in the county, and the name by which the land is most generally known. It shall not contain the field notes. If no newspaper is published in the county, or if published in the county refuses to publish the notice, the officer shall post notices in writing in three public places in the county, one of which shall be at the courthouse door, for at least twenty (20) days successively next before the day of the sale. The publisher's fee shall be Two (2) Cents per word for the first insertion of such publication and One Cent per word for each subsequent insertion, or such newspaper shall be entitled to charge for such publication at a rate equal to but not in excess of the lowest published word or line rate of that newspaper for classified advertising, which fee shall be taxed as part of the costs in such proceeding. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 3.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 7 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 6 of such act, set out under article 28a.

Legal publications and rates therefor, see article 29.

CHAPTER 10—DEATH, RESIGNATION AND REMOVAL

Art. 4228. Death, resignation, or removal

When a guardian dies, resigns or is removed, the Court, on application, and without notice or citation, shall appoint another if there be necessity therefor, and such appointment may be made prior to the filing of, or action upon, the final accounting of such former guardian. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 4.

Effective date. See note under article 4113.

Art. 4229. 4195, 2692, 2610 Resignation

A guardian who wishes to resign, shall present his written application to that effect to the Court, accompanied by a full and complete final account, duly sworn to, showing the true condition of the estate

and of his guardianship. The Court may thereupon immediately accept such resignation and appoint a successor guardian, but shall not discharge such resigning guardian or release him or the sureties on his bond until the entire estate due the ward is delivered to the successor guardian, and final order or judgment shall have been rendered on his final account. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 4.

Effective date. See note under article 4113.

CHAPTER 12—LUNATICS AND DRUNKARDS

Art. 4272. 4243, 2740, 2658 Appointment of guardian

If it be found by the jury that the defendant is of unsound mind, or is an habitual drunkard, as charged, the Court shall, upon application filed within six (6) months after due adjudication thereof, proceed to appoint a guardian of the person and estate (or either) of such defendant, after the issuance and service of notice as required by Articles 4114 and 4115 of the Revised Civil Statutes, 1925, as amended by Chapter 254, Acts of 1935. As amended Acts 1941, 47th Leg., p. 867, ch. 541, § 5.

Effective date. See note under article 4113.

Arts. 4282-4284

Restoration hearing, see, also, article 5561a.

CHAPTER SEVENTEEN—APPEAL

Arts. 4319-4327. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 336-343, Vernon's Texas Rules of Civil Procedure.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER FOUR-B—INTERSTATE COOPERATION [NEW]

Art.

4413b—1. Commission established; composition; functions; Governor's Committee [New].

Art. 4413b—1. Commission established; composition; functions; Governor's Committee

Section 1. There is hereby established a committee to be officially known as the Governor's Committee on Interstate Cooperation, and to consist of five (5) members. Its members shall be: The Secretary of State, ex officio; the Attorney General, ex officio; and three (3) other administrative officials or members of existing commissions to be designated by the Governor. The Governor shall appoint one (1) of the five (5) members of this Committee as its Chairman. In addition to the regular members, the Governor shall be an ex officio honorary non-voting member of this Committee.

Establishment and membership of Commission

Sec. 2. There is hereby established the Texas Commission on Interstate Cooperation. This Commission shall be composed of fifteen (15) regular members, namely:

The five (5) members of the Senate Committee on Interstate Cooperation:

The five (5) members of the House Committee on Interstate Cooperation;

The five (5) members of the Governor's Committee on Interstate Cooperation;

The Governor, the President of the Senate and the Speaker of the House of Representatives shall be ex officio honorary non-voting members of this Commission. The Chairman of the Governor's Committee on Interstate Cooperation shall be ex officio Chairman of this Commission. The Chairman of the Senate Committee on Interstate Cooperation shall be ex officio first Vice-Chairman of the Commission, and the Chairman of the House Committee shall be ex officio second Vice-Chairman of the Commission.

Standing committees of Senate and House; functions

Sec. 3. The said standing Committee of the Senate and the said standing Committee of the House of Representatives shall function during the Regular Session of the Legislature and also during the interim periods between such sessions; their members shall serve until their successors are designated; and they shall respectively constitute for this State the Senate Council and House Council of the American Legislators' Association. The incumbency of each member of the Governor's Committee shall extend until his successor is appointed.

Functions of Commission

Sec. 4. It shall be the function of this Commission:

(1) To carry forward the participation of this State as a member of the Council of State Governments;

(2) To encourage and assist the legislative, executive, administrative and judicial officials and employees of this State to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employees of the other States, of the Federal Government, and of local units of government;

(3) To endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating

(a) The adoption of compacts;

(b) The enactment of uniform or reciprocal statutes;

(c) The adoption of uniform or reciprocal administrative rules and regulations;

(d) The informal cooperation of governmental offices with one another;

(e) The personal cooperation of governmental officials and employees with one another, individually;

(f) The interchange and clearance of research and information, and

(g) Any other suitable process.

(4) In short, to do all such acts as will, in the opinion of this Commission, enable this State to do its part, or more than its part, in forming a more perfect union among the various governments in the United States and in developing the Council of State Governments for that purpose.

Delegations and committees; establishment by Commission; duties

Sec. 5. The Commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony, and may perform other functions for the Commission in obedience to its decisions. Subject to the approval of the Commission, the member or members of each such delegation or committee shall be appointed by the Chairman of the Commission. State officials or employees who are not members of the Commission on Interstate Cooperation may be appointed as members of any such delegation or committee, but private citizens holding no governmental positions in this State shall not be eligible. The Commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee. The Commission may provide for advisory boards for itself and for its various delegations and committees, and may authorize private citizens to serve on such boards.

Report to Governor and Legislature; no compensation

Sec. 6. The Commission shall report to the Governor and to the Legislature within fifteen (15) days after the convening of each regular legislative session, and at such other times as it deems appropriate. Its members and the members of all delegations and committees which it establishes shall serve without compensation for such service.

Names of committees and Commission

Sec. 7. The Committees and the Commission established by this Act shall be informally known, respectively, as the Senate Cooperation Committee, the House Cooperation Committee, the Governor's Cooperation Committee and the Texas Cooperation Commission.

Joint governmental agency

Sec. 8. The Council of State Governments is hereby declared to be a joint governmental agency of this State and of the other states which cooperate through it.

Fund to be appropriated by legislature

Sec. 9. It is contemplated that a fund will be appropriated by the Legislature for the purpose of enabling the Commission, by contribution to the Council of State Governments, to participate with other states in maintaining the said Council's District and central secretariats and its other governmental services. Out of any such fund appropriated, also, the members of the Commission and the members of all delegations and committees which it establishes shall be paid their necessary expenses in carrying out their obligations under this Act.

Partial invalidity

Sec. 10. If any clause or other portion of this Act is held to be invalid, that decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that all such remaining portions of this Act are severable, and that it would have enacted such remaining portions if the invalid portions had not been included in this Act. Acts 1941, 47th Leg., p. 1109, ch. 569.

Passed over Governor's veto, July 3, 1941.

Section 11 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to facilitate the cooperation of this state with other units of government, determining the membership of the Board, and establishing the Texas Commission on Interstate Cooperation; describing the functions and operations of said Commis-

sion; providing for the establishment of delegations and committees; providing for reports; providing titles for the committees and the Commission; declaring the Council of State Governments a joint governmental agency of this State and of the other states; stating the intent of a fund to be appropriated by the Legislature; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 1109, ch. 569.

TITLE 71—HEALTH—PUBLIC

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art. 4437. Hospitals

Board of Regents of University of Texas,
construction and operation of hospital by,
see article 2589c.

CHAPTER FOUR—SANITARY CODE

Art. 4477. Sanitary code

Rule 36a. Registration districts. For the purposes of this Act¹ the State shall be divided into Primary Registration Districts as follows: Each Justice of the Peace Precinct and each incorporated town of two thousand, five hundred (2,500) or more population, according to the last United States Census, shall constitute a Primary Registration District, provided the State Board of Health may combine two or more Registration Districts, or may divide a Primary Registration District into two or more parts, so as to facilitate registration, and in the Justice of the Peace Precinct, the Justice of the Peace shall be Local Registrar, and in cities of two thousand, five hundred (2,500) or more, according to the last United States Census reports, the City Clerk or City Secretary shall be the Local Registrar of Births and Deaths.

It is hereby declared to be the duty of the Justice of the Peace in the Justice of the Peace Precinct, and the City Clerk or City Secretary in the city of two thousand, five hundred (2,500) or more population, to secure a complete record of each birth and death that occurs within their respective jurisdictions, and have same recorded in the County Clerk's office in their respective counties on or before the tenth of the following month. As amended Acts 1941, 47th Leg., p. 782, ch. 486, § 1.

¹ Rules 34a-55a; Vernon's Rev.Pen.Code, art. 781a.

Filed without the Governor's signature, June 19, 1941.

Effective June 17, 1941.

Section 3 of the amendatory Act of 1941 the Act should take effect from and after declared an emergency and provided that its passage.

Rule 51a. Blanks and registration forms. That the State Department of Health shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of this Act, and each city and incorporated town shall print and supply its local registrar, and each county shall print and supply the County Clerk with permanent record books, in form approved by the State Registrar, for the recording of all births and deaths occurring within their respective jurisdictions. The State Registrar shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other forms shall be used than those approved by the State Department of Health. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete

and satisfactory. And all physicians, midwives, informants, or undertakers, and all other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the State Department of Health, or upon the original certificate, such information as they may possess regarding any birth or death, upon demand of the State Registrar in person, by mail, or through the local registrar; provided, that no certificate of birth or death, after its acceptance for registration by the local registrar, and no other record made in pursuance of this Act shall be altered or changed in any regard otherwise than by the amendments properly dated, signed and witnessed. The State Registrar shall further arrange, bind, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive index of all births and deaths registered; said index to be arranged alphabetically, in the case of deaths, by the name of decedents, and in the case of births, by the names of fathers and mothers. He shall inform all registrars what diseases are to be considered infectious, contagious, or communicable, and dangerous to the public health, as decided by the State Department of Health, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread. If any cemetery company or association, or any church or historical society or association, or any other company, society, or association, or any individual, is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of this State, such company, society, association, or individual, may file such record, or a duly authenticated transcript thereof with the State Registrar, and it shall be the duty of the State Registrar to preserve such record or transcript and to make a record and index thereof in such form as to facilitate the finding of any information contained therein. Such record and index shall be open to inspection by the public, subject to such reasonable conditions as the State Department of Health may prescribe. If any person desires a transcript of any record in accordance herewith, the State Registrar shall furnish the same upon application, together with a certificate that it is a true copy of such record, as filed in his office, and for his services in so furnishing such transcript and certificate he shall be entitled to a fee of Ten (10) Cents per folio, Fifty (50) Cents per hour or fraction of an hour necessarily consumed in making such transcript, and to a fee of Twenty-five (25) Cents for the certificate, which fees shall be paid by the applicant; provided, that before the issuance of any such transcript, the Registrar shall be satisfied that the applicant is properly entitled thereto, and that it is to be used only for legitimate purposes.

And provided further, that any citizen of the State of Texas wishing to file the record of any birth or death, not previously registered, may submit to the Probate Court in the county where the birth or death occurred, a record of that birth or death written on the adopted forms of birth and death certificates. The certificate shall be substantiated by the affidavit of the medical attendant present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the undertaker who buried the body. When the affidavit of the medical attendant or undertaker cannot be secured, the certificate shall be supported by the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, with a second affidavit of some person who is acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. The Probate Court shall require such other information

or evidence as may be deemed necessary to establish the citizenship of the individual filing the certificate, and the truthfulness of the statements made in that record. The Clerk of said Court shall forward the certificate to the State Bureau of Vital Statistics with an order from the Court to the State Registrar that the record be, or be not, accepted. The State Registrar is authorized to accept the certificate when verified in the above manner, and shall issue certified copies of such records as provided for in Section 21 of this Act.¹ Provided, however, that when application is made, as provided in this paragraph, a fee of One Dollar (\$1) shall be collected by the Probate Court, Fifty (50) Cents of which shall be retained by the Court, and Fifty (50) Cents of which shall be retained by the Clerk of the County Court for recording said birth or death certificate. Certified copies of said birth or death certificate shall be issued by either the County Clerk or the State Registrar and fee for said certified copy shall be Fifty (50) Cents. Such certified copies shall be prima facie evidence in all Courts and places of the facts stated thereon. No other charge shall be made for the issuance of such delayed certificates and certified copies thereof. The State Bureau of Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose. As amended Acts 1941, 47th Leg., p. 850, ch. 525, § 1.

¹ Rule 54a.

Approved June 17, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

This article was amended twice by the 47th Leg., 1941, namely by Acts 1941, p. 850, ch. 525, approved 90 days after July 3, 1941, date of adjournment, set out above, and by Acts 1941, p. 933, ch. 564, approved July 2, 1941, set out under article 4477, rule 51a, post.

Rule 51a. Blanks and registration forms. That the State Department of Health shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of this Act, and each city and incorporated town shall print and supply its local registrar, and each county shall print and supply the County Clerk with permanent record books, in form approved by the State Registrar, for the recording of all births and deaths occurring within their respective jurisdictions. The State Registrar shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other form shall be used than those approved by the State Department of Health. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. And all physicians, midwives, informants, or undertakers, and all other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the State Department of Health, or upon the original certificate, such information as they may possess regarding any birth or death, upon demand of the State Registrar in person, by mail, or through the local registrar; provided, that no certificate of birth or death, after its acceptance for registration by the local registrar, and no other record made in pursuance of this Act shall be altered or changed in any respect otherwise than by the amendments properly dated, signed, and witnessed. The State Registrar shall further arrange, bind, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive index of all births and deaths registered; said

index to be arranged alphabetically, in the case of deaths, by the name of decedents, and in the case of births, by the names of fathers and mothers. He shall inform all registrars what diseases are to be considered infectious, contagious, or communicable, and dangerous to the public health, as decided by the State Department of Health, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread. If any cemetery company or association, or any church or historical society or association, or any other company, society, or association, or any individual, is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of this State, such company, society, association or individual, may file such record, or a duly authenticated transcript thereof with the State Registrar, and it shall be the duty of the State Registrar to preserve such record or transcript and to make a record and index thereof in such form as to facilitate the finding of any information contained therein. Such record and index shall be open to inspection by the public, subject to such reasonable conditions as the State Department of Health may prescribe. If any person desires a transcript of any record in accordance herewith, the State Registrar shall furnish the same upon application, together with a certificate that it is a true copy of such record, as filed in his office, and for his services in so furnishing such transcript and certificate he shall be entitled to a fee of Ten (10) Cents per folio, Fifty (50) Cents per hour or fraction of an hour necessarily consumed in making such transcript, and to a fee of Twenty-five (25) Cents for the certificate, which fees shall be paid by the applicant; provided, that before the issuance of any such transcript, the Registrar shall be satisfied that the applicant is properly entitled thereto, and that it is to be used only for legitimate purposes.

And provided further, that any citizen of the State of Texas wishing to file the record of any birth or death that occurred in Texas, not previously registered, may submit to the Probate Court in the County where such birth or death occurred, a record of such birth or death written on the adopted forms of birth and death certificates; and provided further that any citizen of the State of Texas wishing to file the record of any birth or death that occurred outside of the State of Texas, not previously registered, may submit to the Probate Court in the County where he resides a record of that birth or death written on the adopted forms of birth and death certificates. The certificate shall be substantiated by the affidavit of the medical attendant present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the undertaker who buried the body. When the affidavit of the medical attendant or undertaker cannot be secured, the certificate shall be supported by the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, with a second affidavit of some person who is acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. The Probate Court shall require such other information or evidence as may be deemed necessary to establish the citizenship of the individual filing the certificate, and the truthfulness of the statements made in that record. The Clerk of the said Court shall forward the certificate to the State Bureau of Vital Statistics with an order from the Court to the State Registrar that the record be, or be not, accepted. The State Registrar is authorized to accept the certificate when verified in the above manner, and shall issue certified copies of such records as provided for in Section 21 of this Act. Such certified copies shall be prima facie evidence in all Courts and places of the facts stated thereon. The State Bureau of

Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose. As amended Acts 1941, 47th Leg., p. 933, ch. 564, § 1.

Approved and effective July 2, 1941.
Section 2 of the amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

See, also, rule 51a, ante, as amended by Acts 1941, 47th Leg., p. 850, ch. 525, § 1, and notes thereunder.

Rule 53a. Fees. That each Local Registrar shall be paid the sum of Fifty (50) Cents for each birth and death certificate properly and completely made out and registered with him, and correctly recorded and promptly returned by him to the State Bureau of Vital Statistics, as required by this Act,¹ unless such Local Registrar shall be acting as Registrar of Births and Deaths in an incorporated city where the compensation of the Registrar is otherwise fixed by city ordinance.

The State Registrar shall annually certify to the County Commissioners Court or County Auditor, as the case may be, the number of birth and death certificates filed by each Local Registrar at the rate fixed herein, and provided that the State Registrar may render such statements monthly or quarterly, at the discretion of the State Board of Health, and the Commissioners Court or County Auditor, as the case may be, shall audit such statement and the County Treasurer shall pay such fees as are approved by the Commissioners Court or the County Auditor, at the time such statement is issued.

And provided further, that the Justice of the Peace, City Clerk or Secretary, and the appointed Local Registrar shall submit to the Commissioners Court or County Auditor, as the case may be, a true and accurate copy of each birth and death certificate filed with him, and such copies shall bear his file date and signature and shall be deposited in the County Clerk's office. The County Clerk shall be paid for indexing and preserving such records, such compensation as may be agreed upon by the Commissioners Court. As amended Acts 1941, 47th Leg., p. 782, ch. 486, § 2.

¹ Rules 34a-55a; Vernon's Rev. Pen. Code, art. 781a.
Effective date. See note under article 4477, rule 36a.

Rule 82. Bodies not shipped by express. For every dead body not shipped by express there must be presented to the railroad company transporting same two passenger tickets of the first class, having endorsed thereon or marked the word "corpse", which said tickets shall be sufficient authority of the railroad company to transport said dead body, provided, however, a transit permit showing physician's or coroner's certificate; name of deceased, date and hour of death, place of death, cause of death, and if of a contagious or infectious disease, the point to which the body is to be shipped and when death is caused by any of the diseases specified in Rule 78 of the Sanitary Code, the names of those authorized by the Health Authorities who may accompany said body. The transit permit must be made in duplicate and the signatures of the physician or coroner, health officer and undertaker must be on both the original and the duplicate copies. The undertaker's certificate and paster of the original shall be detached from the transit permit and pasted on end of the coffin box. The physician's certificate and transit permit shall be handed to any person who may accompany or be in charge of the corpse, if any such there be. The whole duplicate copy shall be sent to the official in charge of the baggage department of the initial line and by him to the

Secretary of the State Board of Health at Austin. As amended Acts 1941, 47th Leg., p. 225, ch. 155, § 1.

Filed without the Governor's signature, April 22, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER FIVE—COUNTY HOSPITAL

Art.

4494f. Leases of hospitals in counties of 29,760 to 29,960 [New].

4494g. Establishment of hospital in counties of over 92,600 and having a

Art.

city of over 57,250 population; lease of hospital [New].

4494h. Lease of hospitals in counties of 10,380 to 10,390 [New].

Art. 4494f. Leases of hospitals in counties of 29,760 to 29,960

Any county in this State having a population of not less than twenty-nine thousand, seven hundred and sixty (29,760) and not more than twenty-nine thousand, nine hundred and sixty (29,960) inhabitants, according to the last preceding Federal Census, shall have authority to lease any county hospital belonging to said county to be operated by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners Court of said county and the lessee. The action of the Commissioners Court in leasing such hospital shall be evidenced by the order of the Commissioners Court, which order shall be recorded in the Minutes of said Court. Acts 1941, 47th Leg., p. 428, ch. 258, § 1.

Filed without the Governor's signature, May 9, 1941.

Effective May 21, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Court in any county having a population

of not less than twenty-nine thousand, seven hundred and sixty (29,760) and not more than twenty-nine thousand, nine hundred and sixty (29,960) inhabitants, according to the last preceding Federal Census, to lease any county hospital belonging to said county, and providing for the terms of said lease; and declaring an emergency. Acts 1941, 47th Leg., p. 428, ch. 258.

Art. 4494g. Establishment of hospital in counties of over 92,600 and having a city of over 57,250 population; lease of hospital

Section 1. In all counties of the State having a population of not less than ninety-two thousand, six hundred (92,600), according to the last preceding United States Census, containing an incorporated city or cities or an incorporated town or towns of not less than fifty-seven thousand, two hundred and fifty (57,250) population, each according to the last preceding United States Census, the Commissioners Court of such county and the governing body of any such city or town may establish, erect, equip, maintain and operate a hospital for the care and treatment of sick, infirm, and/or injured inhabitants of such county and/or city or town. By agreement between such bodies, the cost thereof may be divided between such county and city or town.

Sec. 2. If there be insufficient moneys in the respective general funds of such county and/or city or town for such purpose, the Commissioners Court and/or governing body of the city or town may submit to the qualified, taxpaying voters of the county and/or city or town, respectively, at a special or regular election or elections the proposition of whether such a hospital should be established, erected, equipped, maintained and operated by the county and city or town and a tax of not exceeding Ten (10) Cents on the one hundred dollars valuation of real

and personal property located in such county and/or city or town levied for such purpose and/or whether the county and/or city or town should issue its bonds in an amount not exceeding that specified in such proposition to wholly or partially defray the expense of establishing, erecting, and/or equipping such hospital, and provide for the payment of interest on such bonds and the creation of a sinking fund for the payment thereof out of a direct tax of not exceeding Ten (10) Cents on the one hundred dollars valuation of real and personal property located in such county and/or city or town.

Sec. 3. If such proposition shall receive a majority of the votes cast by the voters at such elections, the Commissioners Court and/or governing body of the city or town may assess and levy a tax of not exceeding Ten (10) Cents on the one hundred dollars valuation of real and personal property located in such county and/or city or town respectively, for such purpose. If, however, the Commissioners Court and/or the governing body of such city or town deem it advisable and the question has received a majority vote at the election called for in the preceding Section, either or both of such bodies may, in the manner provided for the issuance of other bonds of such county and/or city or town in an amount not exceeding that specified in the proposition submitted at such election, assess and levy a tax of not exceeding Ten (10) Cents on the one hundred dollars valuation of real and personal property located in such county and/or city or town for the purpose of paying the interest on such bonds and creating a sinking fund for the payment thereof.

Sec. 4. Any hospital heretofore or hereafter erected, established, equipped, maintained, or operated by such a county and such a city may be leased by such county and city or town upon such terms as are agreeable to such county and city or town and the lessee. Acts 1941, 47th Leg., p. 420, ch. 250.

Filed without the Governor's signature, May 9, 1941.

Effective May 21, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the establishment,

erection, equipping, operation, and maintenance of hospitals by certain counties and cities, for the levying of a direct tax therefor, and for the issuance and payment of bonds for such purposes; further providing for the leasing of such hospitals; and declaring an emergency. Acts 1941, 47th Leg., p. 420, ch. 250.

Art. 4494h. Lease of hospitals in counties of 10,380 to 10,390

Any county in this State having a population of not less than ten thousand, three hundred and eighty (10,380) and not more than ten thousand, three hundred and ninety (10,390) inhabitants according to the last preceding Federal Census, shall have authority to lease any county hospital belonging to said county to be operated by the lessee of same under such terms and conditions as may be satisfactory to the Commissioners Court of said county and the lessee. The action of the Commissioners Court in leasing such hospital shall be evidenced by order of the Commissioners Court, which order shall be recorded in the Minutes of said Court. Acts 1941, 47th Leg., p. 142, ch. 107, § 1.

Filed without the Governor's signature, April 12, 1941.

Effective April 23, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing the Commissioners Court in any county having a population

of not less than ten thousand, three hundred and eighty (10,380) and not more than ten thousand, three hundred and ninety (10,390) inhabitants, according to the last preceding Federal Census, to lease any county hospital belonging to said county, and providing for the terms for said lease; and declaring an emergency. Acts 1941, 47th Leg., p. 142, ch. 107.

CHAPTER SEVEN—NURSES

Art. 4522. Use of title "R.N."; registration bureaus

A nurse who has received his or her license or permit according to the provisions of this law, shall be styled a "Registered Nurse," and may use the title or abbreviation "R. N."

Such registered nurses of any County in this State may maintain one or more Registration Bureaus, not for profit, to be conducted by recognized professional Registered Nurses' organizations for the enrollment of its professional members only, for the purpose of providing professional service to the public. When so operated, such Registration Bureaus shall not be liable for the payment of any occupation tax or license fee unless such Registration Bureaus are named specifically in any law imposing such occupation tax or license fee. As amended Acts 1941, 47th Leg., p. 194, ch. 140, § 1.

Approved April 15, 1941.

Effective April 15, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of

laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER NINE—DENTISTRY

Art. 4549. Refusing examination or license; revocation of license

The State Board of Dental Examiners shall have authority to refuse to examine any person or refuse to issue a license to any person for any one or more of the following causes:

(a) Proof of presentation to the Board of any dishonest or fake evidence of qualification or being guilty of any illegality, fraud or deception in the process of examination, or for the purpose of securing a license.

(b) Proof of chronic or habitual intoxication or addiction to drugs on the part of the applicant.

(c) Proof that the applicant has been guilty of dishonest or illegal practices in or connected with the practice of dentistry.

The State Board of Dental Examiners shall have authority after notice and hearing, as hereinafter provided, to suspend or revoke a dental license for any one or more of the following causes:

(a) Proof of insanity of the applicant or holder of a license, as adjudged by the regularly constituted authorities.

(b) Proof of conviction of the applicant or holder of a license of a felony involving moral turpitude under the laws of this State or any other State or of the United States.

The District Courts of the State shall have the authority, after a proper hearing, to revoke or suspend any dental license issued in the State of Texas for any one or more of the following causes:

1. That the holder thereof has been guilty of dishonorable conduct, malpractice or gross incompetency in the practice of dentistry.

2. That the holder thereof has been guilty of any deception or misrepresentation for the purpose of soliciting or obtaining patronage.

3. That the holder thereof procured a license through fraud or misrepresentation.

4. That the holder thereof is addicted to habitual intoxication or the use of drugs.

5. That the holder thereof employs or permits or has employed or permitted persons to practice dentistry in the office or offices under his control or management, who were not licensed to practice dentistry.

6. That the holder thereof has failed to use proper diligence in the conduct of his practice to safeguard his patients against avoidable infections.

7. That the holder thereof has failed or refused to comply with any of the provisions of this Act.

Proceedings to suspend or revoke a dental license on account of any one or more of the causes set forth in this Article shall be taken as follows:

(a) Where the cause involves a criminal conviction or a conviction of insanity in some court of competent jurisdiction, upon the receipt by the Board of a certified copy of the records of the Court of Conviction showing a final conviction, the Board shall then proceed to set a time and place, not less than ten (10) nor more than thirty (30) days, for a hearing to consider the revocation or suspension of such license or licenses, and shall mail by registered mail to the last known address of such person or persons a copy of such record of conviction together with notice of hearing, and such notice shall state the grounds to be relied upon by said Board for suspension or revocation of such license. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the Board the facts brought out at such hearing justify and require; provided, however, certified copies of the records of the court of conviction shall be sufficient to justify the Board in revoking or suspending a dental license. Provided, however, that any order revoking or suspending such license or licenses shall be signed by a majority of such Board and by all the members of such Board present at such hearing.

If said Board shall make and enter any order revoking or suspending any license or licenses as hereinabove provided, the person or persons whose license shall have been so revoked or suspended may, within thirty (30) days after the making and entering of such order, take an appeal to the District Court of the County of the residence of the person or persons whose license shall have been so revoked or suspended, by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party or parties filing same, as plaintiff, and the State Board of Dental Examiners, as defendants. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board by the person or persons accused, and after citation in such cause has been issued and served as in other civil cases, to prepare and transmit to such District Court upon notice from such Court a transcript of the orders hereinabove provided for, the same to be certified as true and correct by the Secretary of said Board. Such District Court shall thereafter and under the rules of procedure applicable to other civil cases, proceed to set such cause for hearing as in other civil cases. Upon the hearing of such cause, if such Court shall find that the action of such Board, in revoking or suspending such license or licenses is not well taken, such Court shall by appropriate order and judg-

ment set aside such action of said Board; but if such Court or jury shall sustain such action of said Board in revoking or suspending such license or licenses an order shall be made and entered in appropriate form sustaining and affirming the action of such Board, provided, however, that the person or persons whose license shall have been so revoked or suspended may waive the empanelling of a jury, from which order an appeal may be taken to the Court of Civil Appeals, as in other civil causes.

(b) Where the suspension or revocation is based upon any other cause set forth in Article 4549, the proceedings shall be before a District Court of the State or the county in which the alleged offense occurred by complaint to the court and it shall be the duty of the several District and County Attorneys of the State to file and prosecute appropriate judicial proceedings in the name of the State on the request of any member of the State Board of Dental Examiners, and or when complaint is made to the court, by any County or District Attorney as herein provided, said court shall order the accused dentist to show cause why his license shall not be suspended or revoked. Such complaint shall be made in writing. The charge and grounds thereof shall be set out distinctly and the same shall be subscribed and sworn to by the prosecutor and filed with the Clerk of the Court. Citation thereon shall be issued in the name of the State of Texas and in manner and form as in other cases and the same shall be served upon the defendant at least ten (10) days before the trial date set therein. Upon the return of said citation executed, if the defendant shall appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. A jury of twelve (12) men shall be summoned as in cases during term time of the court when no regular jury is available and as prescribed by law and shall be impaneled unless waived by the defendant, and the cause shall be tried in like manner as in other civil cases. If the said accused dentist be found guilty or shall fail to appear and deny the charge after being cited as aforesaid, the court may by proper order entered on the minutes, suspend his license for a time or revoke and cancel it entirely and may also give proper judgment of costs. As amended Acts 1941, 47th Leg., p. 1336, ch. 605, § 1.

Approved and effective July 9, 1941.

Sections 2 and 3 of the Act of 1941 read as follows:

"Sec. 2. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

"Sec. 3. If any section, sub-section, clause, sentence, or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of

this Act. The Legislature hereby declares that it would have passed this Act, and such section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that one or more of the sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional."

Section 4 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 75—HUSBAND AND WIFE

CHAPTER FOUR—DIVORCE

Art. 4629. 4631-2 Grounds for divorce

A divorce may be decreed in the following cases:

(1) Where either party is guilty of excesses, cruel treatment, or outrages toward the other, if such ill treatment is of such a nature as to render their living together insupportable.

(2) In favor of the husband, where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board for the space of three (3) years with the intention of abandonment.

(3) In favor of the wife, where the husband shall have left her for three (3) years with intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman.

(4) Where a husband and wife have lived apart without cohabitation for as long as ten (10) years.

(5) In favor of either the husband or wife, when the other shall have been convicted, after marriage, of a felony and imprisoned in the State penitentiary; provided, that no suit for divorce shall be sustained because of the conviction of either party for felony until twelve (12) months after final judgment of conviction, nor then if the Governor shall have pardoned the convict; provided, that the husband has not been convicted on the testimony of the wife; nor the wife on the testimony of the husband.

(6) When either the husband or wife has become permanently and incurably insane; provided, however, that no divorce shall be granted unless such insane person shall have been duly and legally adjudged to be insane and confined in a public or private insane asylum or other institution for psychopathic patients of this State, or of a sister State, for at least five (5) years next preceding the commencement of the action for divorce, nor unless it shall appear to the Court that such insanity is permanent and incurable; provided, however, that no costs shall be adjudged against an insane spouse in divorce action. As amended Acts 1941, 47th Leg., p. 383, ch. 214, § 1.

Filed without the Governor's signature,
May 9, 1941.

Effective 90 days after July 3, 1941, date
of adjournment.

Section 2 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 4639a. Further provision as to children, petition, judgment

Sec. 3. The authority herein conferred upon the Court to alter, change, or supersede the provisions of judgments providing for the support of minor children, and the authority conferred upon the Court to enforce such judgments may be exercised by the Judge of said Court in vacation. Added Acts 1941, 47th Leg., p. 660, ch. 402, § 1.

Approved May 31, 1941.

Effective 90 days after July 3, 1941, date
of adjournment.

Section 2 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative, under Const. art. 3, § 39.

TITLE 76—INJUNCTIONS

1. IN GENERAL

Arts. 4647, 4648. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Arts. 4649–4655. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 684, 685, 687–689, 680, 686, Vernon's Texas Rules of Civil Procedure.

Art. 4657. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 690, Vernon's Texas Rules of Civil Procedure.

Art. 4658. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 4659. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 691, Vernon's Texas Rules of Civil Procedure.

Art. 4661. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 692, Vernon's Texas Rules of Civil Procedure.

Art. 4662. 4644–5–6 Appeals

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 385, Vernon's Texas Rules of Civil Procedure.

Art. 4663. 4671, 3014 Principles of equity applicable

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 693, Vernon's Texas Rules of Civil Procedure.

2. IN PARTICULAR CASES

Art. 4670. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

TITLE 78—INSURANCE

CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES

Art. 4706. 4712, 3035, 2927 Investments of Funds

(d) In the capital stock, bonds, debentures, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation which has not defaulted in the payment of any of its obligations for a period of five (5) years; provided that no such insurance company shall invest in its own stock, and provided that no such insurance company shall invest any of its funds in any stock on account of which the holders or owners thereof may, in any event, be or become liable to any assessment except for taxes, nor in the stock of any oil, manufacturing or mercantile corporation organized under the laws of this State unless such corporation has a net worth of not less than Two Hundred Fifty Thousand (\$250,000.00) Dollars provided that such corporation is solvent, dividend paying, and has not defaulted in the payment of any of its obligations for a period of five (5) years, nor in the stock of any oil, manufacturing or mercantile corporation not organized under the laws of this State unless such corporation has a capital stock of not less than Five Million (\$5,000,000.00) Dollars and unless such corporation is solvent, dividend paying, and has not defaulted in the payment of any of its obligations for a period of five (5) years. As amended Acts 1941, 47th Leg., p. 564, ch. 357, § 1.

Approved and effective May 22, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

Art.

4730a. Renewal or service commissions to agents of companies discontinuing business in state; statements and reports [New].

Art.

4764b. Industrial life insurance; defined [New].

Art. 4730a. Renewal or service commissions to agents of companies discontinuing business in state; statements and reports

If any life insurance company now engaged or which hereafter may be engaged in the business of issuing policies of life insurance upon the lives of citizens of this State shall discontinue such business, it shall nevertheless continue to be liable for the payment of renewal or service commissions on policies of life insurance theretofore written in accordance with the terms of its agency contracts theretofore made with agents residing in the State of Texas.

Every such company shall furnish monthly to each person who may be entitled to receive service or renewal commissions from such company a statement showing such policies written by such person for such company as shall have terminated during the month for which the statement is made, and shall furnish to each such person not less than quarterly a detailed statement of all policies written by such person for such company on the lives of residents of the State of Texas, showing the policies in force, the policies which have terminated, and the reason for termination. Provided, however, that no such statements need be furnished after the

period during which service or renewal commissions are payable has ended as to all of the policies written by such person for such company.

In any suit against any such company for the recovery of service or renewal commissions, it shall be presumed that all policies written in such company upon the lives of residents of Texas by the person bringing such suit have continued in effect unless and until the contrary is proven by the defendant by competent evidence. Acts 1941, 47th Leg., p. 1358, ch. 620, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing for the protection of life insurance agents of companies now writing life insurance on the citizens of Texas or hereafter writing life insurance on said citizens which companies ceased

to do business in this State; providing for monthly and other reports to be made by such companies to their agents as to renewal or service commission when they have ceased to do business in Texas; providing for liability of such companies to such agents and permitting suit in certain instances; providing that no such report be required after termination of such service or renewal contracts; fixing liability therefor and declaring an emergency. Acts 1941, 47th Leg., p. 1358, p. 620.

Art. 4733. Policies shall not contain what; provisions for benefit less than full benefit in certain cases permitted

No policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company incorporated under the laws of this State, if it contains any of the following provisions:

1. A provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue.

2. A provision by which the policy shall purport to be issued or to take effect more than six (6) months before the original application for the insurance was made, if thereby the insured would rate at any age younger than his age at date when the application was made, according to his age at nearest birthday.

3. A provision for any mode of settlement at maturity of less value than the amounts insured on the face of the policy, plus dividend additions, if any, less any indebtedness to the company on the policy, and less any premium that may by the terms of the policy be deducted; provided, however, that any company may issue a policy promising a benefit less than the full benefit in case of the death of the insured by his own hand while sane or insane, or by following stated hazardous occupations, or in the event the death of the insured should result from aviation activities under the conditions specified in the policy, to be approved by the Board of Insurance Commissioners, as provided in Chapter 3, Title 78, of the Revised Civil Statutes of Texas of 1925. This provision shall not apply to purely accident and health policies. No foregoing provision relating to policy forms shall apply to policies issued in lieu of, or in exchange for, any other policies issued before July 10, 1909. As amended Acts 1941, 47th Leg., p. 519, ch. 315, § 1.

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 4742. 4752 Fees for making deposits

Every company making deposit under the provisions of this Chapter shall pay to the Life Insurance Commissioner of the State of Texas for each certificate placed on registered policies or annuity bonds is-

sued by the company, after the original or first deposit is made hereunder, a fee of Twenty-five (25) Cents; and the fee so received shall be disposed of by the said Life Insurance Commissioner as follows:

1. The payment of the annual rental or hire of the safety deposit fireproof box or vault mentioned in Article 4741.

2. The payment of the compensation and expense of a competent and reliable representative of the Life Insurance Commissioner, to be appointed by him, who shall have direct charge of the securities and safety deposit boxes containing the same, and through whom and under whose supervision the insurance company may have access to its securities for the purposes provided in this Chapter.

3. The payment of the expense incurred in connection with the certification, registration, and valuation of such policies or annuity bonds.

4. The balance of such fees shall be paid to the State Treasurer to the credit of the general fund. As amended Acts 1941, 47th Leg., p. 486, ch. 304, § 1.

Approved May 20, 1941.

Effective May 20, 1941.

Section 2 of amendatory Act of 1941 de-

clared an emergency and provided that the Act should take effect from and after its passage.

Art. 4752. 4762 Limited capital stock companies

Companies may be incorporated in the manner prescribed by this Chapter for the incorporation of life, accident and health insurance companies generally, and to write insurance only on the weekly or monthly premiums plan, and to issue no policy promising to pay more than One Thousand (\$1,000.00) Dollars in the event of death of the insured from natural causes, nor more than Two Thousand (\$2,000.00) Dollars in the event of death of any person from accidental causes, which may issue, combined or separately, life, accident or health insurance policies with not less than an actual paid up capital of Twenty-five Thousand (\$25,000.00) Dollars. All such companies shall be subject to all the laws regulating life insurance companies in this State not inconsistent with the provisions of this Article. Such companies shall not be permitted to invest their assets in other than Texas securities as defined by the laws of this State regulating the investments of life insurance companies. As amended Acts 1941, 47th Leg., p. 797, ch. 495, § 1.

Approved and effective June 14, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

Art. 4764a. Group life insurance; definitions

Section 1. The following forms of life insurance are hereby declared to be group life insurance within the meaning of this Act:

(1) Life insurance covering not less than twenty-five (25) employees written under a policy issued to the employer, the premium for which is to be paid by the employer or by the employer and employees jointly and insuring all of his employees, or all of any class or classes thereof determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, and for the benefit of persons other than the employer; provided, however, that when the premium is to be paid by the employer and employees jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five (75) per centum of such employees may be so insured.

(2) Life insurance covering the members of any labor union who are actively engaged in the same occupation written under a policy issued to

such labor union, which shall be deemed to be an employer and the members of which shall be deemed to be employees of such union within the meaning of this Act.

(3) Life insurance covering only the lives of all members of a group of persons for not more than Ten Thousand Dollars (\$10,000) on any one life, numbering not less than one hundred (100) new entrants to the group yearly, who become borrowers from one financial institution, or who become purchasers of securities, merchandise, or other property from one vendor under agreement to repay the sum borrowed, or to pay the balance of the price of the securities, merchandise, or other property purchased in installments over a period of not more than ten (10) years to the extent of their indebtedness to said financial institution or vendor, but not to exceed Ten Thousand Dollars (\$10,000) on any one life, written under a policy which may be issued upon the application of and made payable to the financial institution or vendor or other creditor to whom such vendor may have transferred title to the indebtedness as beneficiary, the premium on such policy to be payable by the financial institution, vendor, or other creditor. Provided, that group life insurance issued under this classification shall not include annuities or endowment insurance. The requirements set out in Subsection 4 of Section 2 of this Act shall not apply to this subsection. As amended Acts 1941, 47th Leg., p. 1346, ch. 610, § 1.

Approved and effective July 9, 1941. the Act should take effect from and after
Section 2 of the amendatory Act of 1941 its passage.
declared an emergency and provided that

Art. 4764b. Industrial life insurance; defined

Section 1. That for the purposes of this Act, industrial life insurance shall mean that form of life insurance either

(a) under which the premiums are payable weekly, or

(b) under which the premiums are payable monthly or oftener, but less often than weekly, if the face amount of insurance provided in the policy is not more than One Thousand Dollars (\$1,000);

provided that in either case the words "Industrial Policy" are printed on the face of the policy as part of the descriptive matter thereof. When an industrial life insurance policy is issued providing for accident and health benefits, in addition to natural death benefits, the provisions of this Act shall apply only to the life insurance benefits provided in the policy, except as hereinafter otherwise specifically provided.

Required policy provisions

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

a. A provision that the insured is entitled to a stated period of grace of at least four (4) weeks within which the payment of any premium after the first may be made. During such period of grace the policy shall continue in full force, but in case the policy becomes a claim during the grace period, before the overdue premiums are paid, the amount of overdue premiums may be deducted in any settlement under the policy.

b. A provision that the policy shall constitute the entire contract between the parties, but if the insurer desires to make the application a part of the contract it may do so, provided a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties. The policy shall also contain a provision that all statements

made by the insured or on his behalf shall in the absence of fraud be deemed representations and not warranties.

c. A provision that the policy shall be incontestable not later than two (2) years from its date, except for nonpayment of premiums, and except for violation of the conditions of the policy, if any, relating to naval or military service in time of war, and except as to provisions and conditions granting or relating to benefits in the event of total or permanent disability, as defined in the policy, and those granting or relating to additional insurance specifically against death by accident or by accidental means, or to additional insurance against loss of, or loss of use of, specific members of the body.

d. A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age.

e. A provision that in event of default in premium payments after premiums shall have been paid for three (3) full years there shall be available a stipulated form of insurance effective from the due date of the defaulted premium; and in event of default in premium payments after premiums shall have been paid for five (5) full years there shall be available, in lieu of the stipulated form of insurance, at the option of the insured, a specified cash surrender value. The net value of the stipulated form of insurance, and the specified cash surrender value, shall not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums shall have been paid, including the reserve for any paid-up additions thereto and the amount of any dividends standing to the credit of the policy, and excluding any reserve on total and permanent disability, as defined in the policy, and additional accidental death benefits, less a sum of not more than

(1) two and one-half (2 1/2) per cent of the maximum amount insured by the policy and dividend additions thereto, if any, when the issue age is under ten (10) years,

(2) two and one-half (2 1/2) per cent of the current amount insured by the policy and dividend additions thereto, if any, when the issue age is ten (10) years or older,

and less any existing indebtedness to the insurer on or secured by the policy.

The policy may be surrendered to the insurer at its home office within the period of grace after the due date of the defaulted premium for the specified cash surrender value, provided that the insurer may defer payment for not more than six (6) months after the application therefor is made. In the event that application, which must be in writing, for a stipulated form of insurance or the specified cash surrender value when the same are available, is not made within the grace period, it shall be provided that a stipulated form of insurance shall automatically become effective.

f. A provision specifying the mortality table, rate of interest, and method of valuation, if other than net level premium, adopted for computing the life insurance reserves on the contract.

g. A table showing in figures the nonforfeiture options available under the policy at the end of each year upon default in premium payments during the premium paying period, but not to exceed the first twenty (20) years of the policy. Such table is to begin with the year in which such values become available. At the expiration of the period for which such values are shown in the policy, the insurer will furnish upon request an extension of such table.

h. A provision that the policy may be reinstated within one year, or, at the option of the insurer, within fifty-two (52) weeks from the date of default in payment of premiums, unless the cash surrender value has been paid or the period of extended insurance has expired, upon payment of all overdue premiums, the payment or reinstatement of any other indebtedness due to the insurer upon said policy, and upon the presentation of evidence of insurability satisfactory to the insurer. The overdue premiums may, at the option of the insurer, be subject to interest at a rate not exceeding six (6) per cent per annum as may be specified in the policy.

i. A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of, at the insurer's home office, or not later than two (2) months after such receipt of, proof of death satisfactory to the insurer and the right of the claimant to the proceeds.

j. A title on the face of the policy briefly describing its form.

k. In the case of an insurer issuing participating policies in this State, a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy.

l. A provision that no agent shall have the power or authority to waive, change, or alter any of the terms or conditions of any application or any policy delivered or issued for delivery pursuant to the terms of this Act.

Any of the provisions of Section 2, or portions thereof, not applicable to nonparticipating or term policies shall, to that extent, not be incorporated therein.

The provisions of Section 2 shall not apply to policies issued or granted pursuant to the nonforfeiture provisions prescribed in clause (e) of said Section, nor shall clauses (e) and (g) of said Section be required in term insurances of twenty (20) years or less.

Application to existing policies

Sec. 3. Any policy of industrial life insurance delivered or issued for delivery in this State prior to the effective date of this Act, and pursuant to the provisions of Article 4750, Revised Civil Statutes of Texas, 1925, and upon which premiums have been paid for three (3) full years, which does not by its terms secure, upon default in payment of premiums, to the insured or beneficiary thereof, a stipulated form of insurance, shall nevertheless entitle such insured or beneficiary to either extended or paid-up insurance, the net value of which shall be determined as is provided in clause (e) of Section 2 of this Act, providing such insured or beneficiary elects and notifies the home office of the insurer in writing, prior to the expiration of the period of extended insurance, which of said two (2) forms he has elected to take; and any such insured or beneficiary failing to elect and notify the insurer in writing of such election within such time shall be deemed to have elected extended insurance.

Authorized provisions

Sec. 4. In addition to the provisions required by Section 2, any policy of industrial life insurance delivered or issued for delivery in this State may contain, in substance, the following provisions, in addition to any other provision or provisions not elsewhere prohibited by this Act:

a. A provision excluding liability or promising a benefit less than the full amount payable as a death benefit in case of the death of the insured

by his own hand while sane or insane, or by following stated hazardous occupations.

b. A provision limiting the maximum amount payable on the death of an infant under fifteen (15) years of age.

Prohibited provisions

Sec. 5. No industrial life insurance policy delivered or issued for delivery in the State of Texas shall contain any provision which

(a) limits the time within which any action at law or in equity may be commenced to less than two (2) years after the cause of action shall accrue;

(b) except as otherwise provided herein, provides for any mode of settlement at maturity of less value than the amounts insured on the face of the policy, plus dividend additions thereto, if any, less any indebtedness to the insurer on the policy, and less any premium that may, by the terms of the policy, be deducted, and provided also that this provision shall not prevent an additional accidental death benefit being limited so as not to be payable in event of death from certain causes of accidents.

Approval of policy, rider, endorsement, etc., by Board of Insurance Commissioners

Sec. 6. No insurance company transacting business in this State shall hereafter deliver or issue for delivery in this State any policy of industrial life insurance, or any policy of industrial life insurance providing for accident and health benefits in addition to natural death benefits, or attach to, or print or stamp upon such policy, any rider, or endorsement, until the form of such policy, rider, or endorsement has been submitted to and approved by the Board of Insurance Commissioners of the State of Texas. It shall be the duty of the Board of Insurance Commissioners to disapprove any such policy, rider, or endorsement if it violates any of the provisions of this Act, and to give written notice to the insurer of such disapproval in which notice the Board shall specify the particulars in respect to which the policy, rider, or endorsement violates the provisions of this Act. If the Board of Insurance Commissioners shall disapprove any such policy, rider, or endorsement, the insurer may, within ninety (90) days after the mailing of the written notice of such disapproval by the Board, institute proceedings in the District Court of Travis County, Texas, to review the action of the Board thereon.

Associations excepted

Sec. 7. This Act shall not apply to local mutual aid associations or state-wide mutual life, health, and accident companies and burial associations operating under Senate Bill No. 135, Acts of the Regular Session of the Forty-sixth Legislature,¹ but this Act and no other shall apply to and govern the form and content of industrial life insurance policies, as they are defined herein, issued by all other insurance companies.

¹ Article 5068—1.

Certain non-profit organizations excepted

Sec. 7a. Nothing contained in this Act shall be so construed as to affect or apply to orders, societies, associations, or labor organizations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and

who do not operate for profit; nor shall this Act apply to the ladies societies or ladies auxiliaries to such orders, societies, associations, or labor organizations, nor to fraternal orders, associations, and societies.

Extension of time to comply with Act

Sec. 8. Upon proper showing to the Board of Insurance Commissioners of inability of an insurer to comply with this Act immediately upon the same becoming effective, such insurer may, at the discretion of the Board, have sixty (60) days from and after the effective date of the Act in which to make full compliance with the provisions of this Act.

Partial invalidity

Sec. 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any circumstances, are held invalid, the remainder of the Act and the application of such provisions to circumstances other than those as to which it is held invalid, shall not be affected thereby. Acts 1941, 47th Leg., p. 111, ch. 89.

Approved and effective March 29, 1941.

Section 10 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining industrial life insurance; forbidding the delivery or issuance for delivery of any policy of industrial life insurance, unless it shall contain certain provisions, and making said provisions subject to certain exceptions; securing to insureds and beneficiaries under policies previously issued, the right to select, under certain circumstances, extended or paid-up insurance and providing for the automatic selection of extended insurance in the event such insureds or beneficiaries fail to make a selection; designating additional optional provisions to be contained in policies of industrial life insurance; forbidding the inclusion of certain provisions in industrial life insurance policies; requiring approval of the Board of Insurance Commissioners of all policies of industrial life insurance, including such policies which provide for accident and health benefits in addition to natural death benefits, and all riders and endorsements before same can be delivered or issued for delivery; requiring written notice in case of disap-

proval of any policy, rider, or endorsement; providing for an appeal from the decision of the Board; exempting local mutual aid associations and state-wide mutual life, health, and accident companies, burial associations, and orders, societies, associations, or labor organizations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business and who do not operate for profit; exempting ladies societies or ladies auxiliaries to such orders, societies, associations, or labor organizations and also exempting fraternal orders, associations, and societies; providing that this Act and no other shall apply to and govern the form and content of industrial life insurance policies issued by all other companies; providing that upon proper showing to the Board of Insurance Commissioners of inability of an insurer to comply with this Act immediately upon the same becoming effective, such insurer may at the discretion of Board have sixty (60) days from and after the effective date of this Act in which to make full compliance with its provisions; providing for the severability of the provisions of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 111, ch. 89.

CHAPTER FOUR—TEXAS SECURITIES AND GROSS RECEIPTS TAX

Art. 4766. 4776 "Texas Securities"

The term "Texas Securities," as used in this Chapter, shall be held to include all bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,¹ when such bonds are issued against and secured by promissory notes or other obligations the payment of which is secured by mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State; bonds of the State of Texas; bonds or interest-bearing warrants of any county, city, town, school district or other municipality or subdivision which is now or may

hereafter be constituted or organized and authorized to issue such bonds or warrants under the Constitution and laws of this State; notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator; promissory notes and other obligations, the payment of which is secured by a mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this State, the title to which real estate is valid and the market value of which is forty (40) per cent more than the amount loaned thereon, exclusive of buildings unless such buildings are insured against fire and kept insured in some company authorized to transact business in the State of Texas, and the policy or policies transferred to the company taking such mortgage or lien; or upon first liens upon leasehold estates in real property and improvements situated thereon, the title to which is valid, and the leasehold has not less than thirty (30) years to run before expiration, provided that the duration of any loan upon such leasehold estates shall not exceed a period of ten (10) years. If any part of the value of such real estate is in buildings, such buildings shall be insured against fire and kept insured for at least fifty (50) per cent of the value thereof in some company authorized to transact business in this State and the policy or policies shall be transferred to the company taking such mortgage or lien.

The term "Texas Securities," as used in this Chapter, shall also be held to include obligations secured collaterally by such first lien notes; first mortgage bonds of any solvent corporation incorporated under the laws of this State and doing business in this State, and which has paid, out of its actual earning, dividends of an average of at least five (5) per cent per annum on the par value of all of its par value stock outstanding and on the sale value of all of its no par value stock outstanding for a period of at least five (5) years next preceding the date of such investment, and which has not at any time defaulted in the payment of interest on any of its obligations, any such investment in the bonds of any one such corporation not to exceed five (5) per cent of the admitted assets of the insurance company making the investment, and loans made to policyholders on the sole security of the reserve values of their policies. The investments required by this Chapter may be made by the purchase of not more than one building site, and in the erection thereon of not more than one office building, or in the purchase, at its reasonable market value, of such office building already constructed and the ground upon which the same is located in any city of the State of more than four thousand (4,000) inhabitants. All real estate owned by life insurance companies in this State on December 31, 1909, and all thereafter acquired under the provisions of this Chapter, or by foreclosure of a lien thereon shall be treated, to the extent of its reasonable market value, as a part of the investment required by this Chapter. And "Texas Securities" shall be held to include every character of investment authorized by the terms of this Article; provided that the above restrictions concerning mortgage loans shall not apply to loans insured by the Federal Housing Administrator. As amended Acts 1941, 47th Leg., p. 848, ch. 524, § 1.

¹ 39 Stat. 360, 12 U.S.C.A. § 641 et seq.
Approved and effective June 17, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 4769. 4779 Report showing gross receipts

Each life insurance company not organized under the laws of this State, transacting business in this State, shall annually, on or before the 1st day of March, make a report to the Commissioner,¹ which report shall be sworn to by either the president or vice president and secretary or treasurer of such company, which shall show the gross amount of premiums collected during the year ending on December 31st, preceding, from citizens of this State upon policies of insurance. Each such company shall pay annually a tax equal to four and sixty-five hundredths (4.65) per cent of such gross premium receipts. When the report of the investment in Texas securities, as defined by law, of any such companies as of December 31st of any year shall show that it has invested on said date as much as thirty (30) per cent of its total Texas reserves as defined by law, in promissory notes or other obligations secured by mortgage, deed of trust, or other lien on Texas real estate and/or in loans to residents or citizens of Texas secured by the legal reserve on the respective policies held by such borrowers, the rate of occupation tax shall be reduced to four and five one hundredths (4.05) per cent; and when such report shall show that such company has so invested on said date as much as sixty (60) per cent of its total Texas reserve, the rate of such tax shall be reduced to three and six tenths (3.6) per cent; and when such report shall show that such company has so invested, on said date, as much as seventy-five (75) per cent of its total Texas reserve, the rate of such tax shall be reduced to three and one tenth (3.1) per cent. All such companies shall, in any event, make the investments in Texas securities in proportion to the amount of Texas reserves as required by law. Such taxes shall be for and on account of the business transacted within this State during the calendar year in which such premiums were collected, or for that portion thereof during which the company shall have transacted business in this State. This Act shall not in any manner affect the obligation for the payment of any taxes that have accrued and that are now due or owing, but the obligation as now provided by law for the payment of such taxes shall continue in full force and effect. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVIII, § 3.

¹ Transfer of Commissioner's powers and duties to Board of Insurance Commissioners, see article 4682a.

Approved May 1, 1941.

Effective May 1, 1941.

Section 4 of Article XVIII of Acts 1941, 47th Leg., p. 268, ch. 184, was amended by Acts 1941, 47th Leg., p. 774, ch. 481, § 1, effective June 16, 1941, to read as follows: "All revenue derived from, and collected under the provisions of this article shall be allocated as hereinafter provided in Article XX of this Act. Provided, however, that all revenue collected prior to the effective date of this Act and now held in suspense by the Insurance Commission preparatory

to being distributed and allocated to certain funds, is hereby appropriated, allocated, and transferred as follows: one-fourth ($\frac{1}{4}$) to the Available School Fund of the State of Texas and three-fourths ($\frac{3}{4}$) to the Old-Age Assistance Fund as created by Article XX, Section 2, Sub-section (4) of this Act. All laws, and parts of laws in conflict with this section are repealed to the extent of such conflict only."

Lien of taxes, fines, penalties and interest, see article 7083b.

CHAPTER EIGHT A—MUTUAL ASSESSMENT LIFE INSURANCE**Art. 4859f. Mutual assessment life insurance corporations—Corporations included****Examination**

Section 6. In addition to the annual report required by said House Bill No. 303, the Life Insurance Commissioner shall, once in every two (2) years or oftener if he deems it advisable, require the books, records, accounts, and affairs of any corporation or association qualifying and acting under said Act to be examined and audited by an accountant or accountants or examiner designated and commissioned by him. For the purpose of an examination, the Commissioner and the auditors and examiners shall have free access to all books, records, papers, and accounts of the corporation; and the cost for the time required in making such examination and audit and all necessary expenses in connection therewith shall be paid by the corporation upon presentation of a bill showing the charges made by the Department, which shall include the salaries, traveling expenses, hotel bills, and other expenses of such auditors and/or examiners, together with all other expenses in connection with such examination. Each corporation or association shall be charged with the salary of the auditors and examiners for the time required in making such examination and the time required in connection with going to and coming from the place or places necessary in connection with such examination, together with all expenses incurred by such auditors and/or examiners, and in addition thereto such corporation or association shall be charged by the Commissioner with an amount equal to the salaries of the actuary, examination clerk or clerks, stenographers, and all other employees employed in connection with the examination work in the Department for the time said employees are performing duties in connection with the examination of each corporation so examined. The amounts so collected shall be paid into the Examination Fund of the State Treasury Department and paid out in accordance with the general examination laws.

The Commissioner or his deputy or any examiner shall have the right to require any officer, agent, or employee of any company or association operating under this law, or any other person, to be sworn and to answer under oath any questions regarding the affairs or activities of said association or company, and the Commissioner, his deputy, and/or any examiner or auditor is hereby authorized to administer such oath. It shall be the duty of the Commissioner to require any corporation, person, firm, association, local mutual aid association, or any local association, company, or organization to have a certificate of authority before being authorized to carry on any insurance business in this State. If, in any event, any such company, person, firm, association, corporation, local aid association, or local organization is writing any form of insurance whatsoever without a permit or certificate of authority issued by the Department of Insurance of Texas, it shall be the duty of the Commissioner to make known said fact to the Attorney General of the State of Texas, who is hereby required to institute proceedings in the District Court of Travis County, Texas, to restrain such corporation, person, firm, association, company, local aid association, or organization from writing any insurance of any kind or character without a permit; provided no provisions of this Act shall be construed to apply to associations which limit their membership to the employees

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

and the families of employees of any particular designated firm, corporation, or individual, and which are not operated for profit and which pay no commissions to anyone and whose operating expenses do not exceed One Hundred Dollars (\$100) per month; provided however, that all such associations shall make annual reports to the Department of Insurance on blanks furnished for that purpose, showing the financial condition, the receipts and expenditures, and such other facts as the Board of Insurance Commissioners may require. No such association shall be permitted to operate, however, without making report to the Insurance Department of the State of Texas and securing a permit to so function. Such permit shall be for the current year or fractional part thereof and shall expire on the first day of March thereafter and shall be renewed annually upon the approval of the financial statement of the organization by the Board of Insurance Commissioners. All such organizations shall have twelve (12) months from and after the effective date of this Act in which to comply with its provisions and conditions. If any organization fails to qualify under this Act or fails to comply with its requirements in any manner, it shall be the duty of the Board of Insurance Commissioners to report the same to the Attorney General who shall, at the request of the said Board, file such suit as may be necessary to wind up the affairs of such association and if necessary have a receiver appointed for that purpose. The venue of such suit shall be laid in the District Court of Travis County, Texas, providing however, that any organization, association, or corporation, acting under the provisions of this Act and organized thereunder, who, because of lack of time to complete said organization have failed to comply with the provisions of House Bill No. 893,¹ may be reinstated and have their rights and status thereof renewed and extended, provided they qualify by complying with the terms, requisites, and conditions of this Act within the time prescribed hereinabove. As amended Acts 1941, 47th Leg., p. 860, ch. 535, § 1.

¹ This section.

Approved and effective June 18, 1941.

Section 2 of the amendatory Act of 1941 read as follows: "All laws or parts of laws with reference to the examination of organizations operating under House Bill No. 303, Acts of the Forty-third Leg-

islature and amendments thereof, as above set out, in conflict with this Act are hereby expressly repealed."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER NINE—MUTUAL INSURANCE COMPANIES

Art. 4860a—20. County Mutual Insurance Companies; definitions

Statute relating to licensing of local recording agents and solicitors inapplicable, see article 5062b, § 20.

CHAPTER TEN—STATE INSURANCE COMMISSION

Art.

4918b. National Defense projects; special rates and rating plans for Workmen's Compensation, motor vehicle, and other casualty insurance [New].

Art. 4918b. National Defense projects; special rates and rating plans for Workmen's Compensation, motor vehicle, and other casualty insurance

Section 1. The Board of Insurance Commissioners of Texas is hereby authorized and empowered to make and promulgate special rates and special rating plans for Workmen's Compensation, Motor Vehicle and other lines of Casualty insurance to be applicable only to the construction or operation of National Defense Projects in Texas, and to make such special rates and special rating plans separately for each class of insurance, or in combination of all such classes. The Board shall also have authority to make and promulgate such rules and regulations as may be necessary, proper or advisable in placing such rates and plans in effect.

Sec. 2. The Board of Insurance Commissioners is hereby authorized and empowered to promulgate special rates and forms for fire and windstorm insurance, and other types of material damage insurance required or used upon such National Defense Projects, and the Board may also promulgate rules and regulations incidental to said business and necessary to place its special rates and forms in effect.

Sec. 3. This Act shall be cumulative of existing laws and applicable only to rates upon insurance in relation to National Defense Projects, and to the extent of such subject constitutes an exception to existing laws. Acts 1941, 47th Leg., p. 796, ch. 494.

Approved and effective June 13, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to authorize and empower the Board of Insurance Commissioners of the State of Texas to make and promulgate special rates and rating plans for Workmen's Compensation, Motor Vehicle and other lines of Casualty insurance, separately or in combination applicable to the

construction or operation of National Defense Projects; authorizing the Board to make special fire, windstorm, and material damage insurance rates on such projects; to promulgate rules and regulations incident to all such forms of insurance; providing that this Act shall be cumulative of existing laws and applicable only to insurance rates in relation to National Defense Projects; and declaring an emergency. Acts 1941, 47th Leg., p. 796, ch. 494.

CHAPTER TWENTY ONE—GENERAL PROVISIONS

Art.

5062b. Licensing of local recording agents and solicitors; life, health and accident insurance excepted; other exceptions [New].

Art. 5062a. Regulations for the licensing of local recording agents and solicitors to represent insurance companies, exceptions

Licensing of local recording agents and solicitors, see also article 5062b.

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

Art. 5062b. Licensing of local recording agents and solicitors; life, health and accident insurance excepted; other exceptions

Section 1. Insurance agents, as that term is defined in the laws of this State, shall for the purpose of this Act be divided into two classes: Local Recording Agents and Solicitors.

Definitions; certain orders, societies or associations not affected

Sec. 2. By the term "Local Recording Agent" is meant a person or firm engaged in soliciting and writing insurance, being authorized by an Insurance Company or Insurance Carrier, including Fidelity and Surety Companies, to solicit business and to write, sign, execute, and deliver policies of insurance, and to bind companies on insurance risks, and who maintain an office and a record of such business and the transactions which are involved, who collect premiums on such business and otherwise perform the customary duties of a Local Recording Agent representing an Insurance Carrier in its relation with the public; or a person or firm engaged in soliciting and writing insurance, being authorized by an Insurance Company or Insurance Carrier, including Fidelity and Surety Companies, to solicit business, and to forward applications for insurance to the Home Office of the Insurance Companies and Insurance Carriers, where the Insurance Company's and Insurance Carrier's general plan of operation in this State provides for the appointment and compensation of agents for insurance and for the execution of policies of insurance by the Home Office of the Insurance Company or Insurance Carrier, or by a Supervisory Office of such Insurance Company or Insurance Carrier, and who maintain an office and a record of such business and the transactions which are involved, and who collect premiums on such business and otherwise qualify and perform the customary duties of a Local Recording Agent representing an Insurance Carrier in its relation with the public.

By the term "Solicitor" is meant a person who is a bona fide Solicitor in the office of, and engaged in the business of soliciting insurance on behalf of a Local Recording Agent, and who offices with such Local Recording Agent, and who does not sign and execute policies of insurance, and who does not maintain company records of such transactions. This shall not be construed to make a Solicitor of a Local Recording Agent, who placed business of a class which the rules of the Company or Carrier require to be placed on application or to be written in a supervisory office.

By the term "Board", as used in this Act, is meant the Board of Insurance Commissioners.

Where reference is made in this Act to "Company" or "Carrier" such reference means any Insurance Company, corporation, inter-insurance exchange, Mutual, Reciprocal, Association, Lloyds or other Insurance Carrier licensed to transact business in the State of Texas other than as excepted herein.

Nothing contained in this Act shall be so construed as to affect or apply to orders, societies, or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and the ladies' societies, or ladies' auxiliary to such orders, societies or associations, or any secretary of a Labor Union or organization, or any secretary or agent of any Fraternal Benefit Society, which does not operate at a profit.

Application for license; to whom license may be issued; corporations not to be licensed

Sec. 3. When any person or firm shall desire to engage in business as a Local Recording Agent for an Insurance Company or Insurance Carrier, he shall make application for a license to the Board of Insurance Commissioners, in such form as the Board may require, which application shall require a signed endorsement by General or State or Special Agent of a qualified Insurance Company or Insurance Carrier that applicant is a resident of Texas, trustworthy, of good character and good reputation, and is worthy of a license. The Board is authorized to issue licenses to firms or to individuals engaging as partners in the insurance business, provided the names of all persons interested in such firm are named in the license, and each named as active in the business of the partnership qualify, and it be established that none not active have interest in partnership principally to have written and be compensated therefor for insurance on property controlled through ownership, mortgage or sale, family relationship, or employment; and provided further, that all licensed agents must be residents of Texas. Provided, that a person who may reside in a town through which the State line may run and whose residence is in the town in the adjoining State may be licensed, if his business office is being maintained in this State. All persons acting as Agent or Solicitor for health and accident insurance within the provisions hereof, and who represent only fire and casualty companies, and not life insurance companies, shall be required to procure only one license and such license as is required under the provisions of this Act. The Board shall not issue a license to a corporation.

Acting without license forbidden

Sec. 4. It shall be unlawful for any person or firm or partnership to act as a Local Recording Agent or Solicitor in procuring business for any Insurance Company, corporation, inter-insurance exchange, Mutual, Reciprocal, Association, Loyds or other Insurance Carrier, until he shall have in force the license provided for herein.

Active agents or solicitors only to be licensed

Sec. 5. No license shall be granted to any person, firm or partnership, either as a Local Recording Agent or Solicitor, for the purpose of writing any form of insurance, unless it is found by the Board of Insurance Commissioners that such person or firm is, or intends to be, actively engaged in the soliciting or writing of insurance from the public generally; that each person or individual of a firm is a resident of Texas, of good character and good reputation, worthy of a license, and is to be actively engaged in good faith in the business of insurance, and that application is not being made in order to evade the laws against rebating and discrimination either for the applicant or for some other person. Nothing herein contained shall prohibit his insuring his own property or properties in which he has an interest; but it is the intent of this section to prohibit coercion of insurance and to preserve to each citizen the right to choose his own Agent or Insurance Carrier, and to prohibit the licensing of an individual or firm to engage in the insurance business principally to handle business which he controls only through ownership, mortgage or sale, family relationship or employment, which shall be taken to mean that an applicant who is making an original application for license shall show the Board of Insurance Commissioners that he has a bona fide intention to engage in business in which at least twenty-five (25%) per cent of the total volume of premiums shall be derived from persons other than himself and from property other than that on which the applicant

shall control the placing of insurance through ownership, mortgage, sale, family relationship or employment; and which shall be taken to mean, in the case of application for renewal of license, that at least twenty-five (25%) per cent of applicant's total volume of premiums, during the year preceding such application for renewal, shall have been derived from persons other than himself and from property other than that on which the applicant controlled the placing of insurance through ownership, mortgage, sale, family relationship or employment.

Examination required; exceptions

Sec. 6. If applicant for a Local Recording Agent's license has not prior to date of such application, been licensed as a Local Recording Agent, or if the applicant for a Solicitor's license has not been licensed as a Local Recording Agent or as a Solicitor prior to date of such application, the Board of Insurance Commissioners shall require such applicant to submit to a written examination covering all kinds of insurance or contracts, which license if granted, will permit the applicant to solicit. Any applicant for Local Recording Agent's license who has prior to the date of such application been licensed as a Local Recording Agent, shall be entitled to a Local Recording Agent's license without examination, provided the other requirements of this Act are met. Any applicant for a Solicitor's license who has been licensed as a Local Recording Agent or as a Solicitor prior to date of such application, shall be entitled to a Solicitor's license without an examination, provided the other requirements of this Act are met.

Death, disability or insolvency; emergency license without examination

Sec. 6a. In event of death or disability of a Local Recording Agent or in event a Local Recording Agent is found to be insolvent and unable to pay for premiums coming to his hands as such Local Recording Agent, the Board may issue to an applicant for a Local Recording Agent's license an emergency Local Recording Agent's license for a period of not longer than ninety (90) days in any twelve (12) consecutive months without an examination provided the other requirements of this Act are met and if it is established to the satisfaction of the Board that such emergency license is necessary for the preservation of the agency assets of a deceased or disabled Local Recording Agent or of an insolvent Local Recording Agent.

Conduct of examinations; notice; manual of questions and answers

Sec. 7. All examinations provided by this Act shall be conducted by the Board of Insurance Commissioners, and shall be held not less frequently than once each sixty (60) days every year at times and places prescribed by the Board of Insurance Commissioners, of which applicants shall be notified by the Board of Insurance Commissioners in writing, ten (10) days prior to the date of such examinations, and shall be conducted in writing, except that the applicant upon notice to the Board of Insurance Commissioners shall be entitled to be examined in the county seat of the county of his residence. Provided, further, that printed copies of a manual of questions and answers thereto pertaining to the examination published under the direction of the Board of Insurance Commissioners shall be made available to all companies, general agents, and managers for the use of their prospective agents, to all agents for the use of their prospective solicitors in preparing for such examination. The questions to be asked on such examination shall be based upon the questions and answers contained in the manual.

Expiration of license; renewal

Sec. 8. Every license issued to a Local Recording Agent or Solicitor shall expire on the first day of March each year, unless an application to qualify for the renewal of any such license shall be filed with the Board of Insurance Commissioners and fee paid on or before such date, in which event the license sought to be renewed shall continue in full force and effect until renewed or renewal is refused.

Fees payable before examination

Sec. 9. Applicants required to be examined shall, at time and place of examination, pay prior to being examined; for a Local Recording Agent's license in a town or village exceeding five thousand (5,000) population, a fee of Ten (\$10.00) Dollars; for a Local Recording Agent's license in any other place, a fee of Five (\$5.00) Dollars; for a Solicitor's license in town or village exceeding five thousand (5,000) population, a fee of Two and 50/100 (\$2.50) Dollars; for a Solicitor's license in any other place, a fee of One (\$1.00) Dollar. Population shall be determined according to last Federal Census.

Renewal fee

Sec. 10. An applicant for the renewal of a Local Recording Agent's license or for the renewal of a Solicitor's license shall pay, at the time the renewal application is filed, a fee of One (\$1.00) Dollar.

Issuance of license

Sec. 11. Whenever the provisions of this Act have been complied with, the Board shall issue to any applicant the license applied for where such applicant shall have satisfactorily passed the examination given by the Board of Insurance Commissioners, and who shall possess the other qualifications required by this Act.

Notice to insurance commissioners of appointment of Local Recording Agent by insurance company

Sec. 12. After a person or firm shall have been granted a license as Local Recording Agent in this State, he shall be authorized to act as such Local Recording Agent, only after and during the time such person or firm has been authorized so to do, by an Insurance Company or Carrier having a permit to do business in this State; and when so authorized each Company or Carrier or its General or State or Special Agent making the appointment shall immediately notify the Board of Insurance Commissioners, in such form as the Board may require, of the appointment, and such person or firm shall be presumed to be the agent for such company in this State until such company or its General or State or Special Agent shall have delivered written notice to the Board of Insurance Commissioners that such appointment has been withdrawn.

Application for solicitor's license

Sec. 13. When any Local Recording Agent who has been appointed by an Insurance Carrier having a permit to do business in this State shall desire to appoint a Solicitor in the operation of his business, he and a company jointly shall make application for a license for such Solicitor to the Board of Insurance Commissioners, in such form as the Board may require.

Notice to insurance commissioners of solicitor's appointment; authority to solicit

Sec. 14. No Solicitor shall be authorized to solicit insurance until after the Board of Insurance Commissioners shall have been notified by

a Local Recording Agent of his appointment, and no Local Recording Agent shall accept business tendered by a Solicitor until such Local Recording Agent has given notice to the Board of Insurance Commissioners of such Solicitor's appointment as such, and until such Solicitor has been licensed by the Board of Insurance Commissioners. No Solicitor shall have outstanding at any time, a notification of appointment from more than one Local Recording Agent, and a Solicitor shall solicit insurance only in the name of and for the account of the Local Recording Agent by whom he has been appointed.

Fire insurance in excess of value, writing of forbidden

Sec. 15. It shall be unlawful for any Local Recording Agent or Solicitor for an Insurance Company or Insurance Carrier knowingly to grant, write or permit a greater amount of insurance against loss by fire than the reasonable value of the subject of insurance.

Suspension, cancellation or surrender of license

Sec. 16. The license of any Local Recording Agent or Solicitor may be suspended or canceled by the Board of Insurance Commissioners, after a hearing following not less than ten (10) days' notice shall have been accorded to such Local Recording Agent or Solicitor, for violation of this Act or of any Insurance Laws of this State; or if any Local Recording Agent or Solicitor shall be guilty of rebating any insurance premium or discriminate as between assureds; or if any Local Recording Agent or Solicitor shall fail to account or to pay promptly for premiums coming to his hands as such Local Recording Agent or Solicitor, or if it shall be made to appear that such person or firm has obtained a license and is not legally entitled thereto. The license of any Local Recording Agent or Solicitor may be voluntarily surrendered upon giving written notice thereof to the Board of Insurance Commissioners, and shall be automatically suspended or canceled if such Local Recording Agent shall not have outstanding a valid appointment to act as agent for an Insurance Company or Insurance Carrier, or if such Solicitor shall not have outstanding a valid appointment to act as a Solicitor for a Local Recording Agent.

Notice and hearing; witnesses; books; records

Sec. 17. The Board shall neither refuse to issue nor to renew, nor to suspend, nor to revoke, any license provided for in this Act for any of the causes enumerated herein, unless the applicant or the person accused has been given at least ten (10) days' notice in writing of the specific charge against him, and shall have been given a hearing before the Board. Upon the hearing of such proceeding the applicant or accused shall have the right to be represented by counsel and the Board shall, if it so requests, be represented by the District Attorney or the County Attorney of the County in which the hearing is held. The Board shall have the power to summon witnesses and require the production of books, records, and papers for the purpose of such hearing, and to administer oaths. Any District Court or any Judge of such Court in this State, in term time or in vacation, upon application by the accused or of the Board or a member thereof, may, by order duly entered, require the attendance of witnesses and production of relevant books, records and papers before the Board, in any hearing relating to the refusal, suspension, renewal, or revocation or issuing of any license provided for in this Act, and may order the Sheriff or any other peace officer of the County wherein said order is made and entered, to serve such process as may be issued, in order to compel the attendance of witnesses before said Board, for which services

so rendered by such officer or officers, the fees and mileage of the Sheriff for all witnesses shall be the same as allowed in criminal cases, and shall be paid from the fund of the Board as herein provided for; however, the officers shall make claim for fees as in criminal cases and be paid upon warrant drawn by the Comptroller as in criminal cases. If the applicant or the accused shall prevail at such hearing, the Board shall grant him the proper relief without delay. Any of the investigations, inquiries or hearings thus authorized may be entertained or held by or before any member or members of the Board of Insurance Commissioners, and the finding or order of such member or members, when approved and confirmed by the Board, shall be deemed a finding or order of the Board. The Board or any member thereof may hold any of such hearings provided for in this Act, in Austin or in the County seat of the County of the residence of the applicant or the accused, at the discretion of the Board. If the applicant or accused shall fail or refuse to appear for any hearing, after the notice provided herein, the Board shall have the authority to proceed with such hearing, and enter the proper orders the same as if the applicant or accused were present in person.

Appeal

Sec. 18. If the said Board shall refuse an application for any license provided for in this Act, or shall suspend, revoke or refuse to renew any such license or permit at said hearing, then any such applicant or accused may appeal from said order by filing suit in any of the District Courts of Travis County, Texas, or in any District Court in the County of the applicant's residence, and not elsewhere within twenty (20) days from the date of the order of said Board, such appeal to the District Court shall be by a trial de nova, as such term is commonly used and intended in an appeal from justice court to county court. On the date of the rendition of any such order of the Board, a registered letter containing a copy of such order shall be mailed by the Board to the applicant or the accused involved.

Notice to last address

Sec. 19. Where notice to the applicant or accused is provided for in any part of this Act, notice by registered mail to his last known address shall be sufficient.

Life, health and accident insurance, inapplicable to; other exceptions

Sec. 20. No provision of this Act shall apply to the Life, Health and Accident Insurance business or the Life, Health and Accident Department of the companies engaged therein, nor shall it apply to any of the following, namely:

(a) Any actual full-time home office or salaried traveling representatives of any Insurance Carrier licensed to do business in Texas.

(b) Any actual attorney in fact and its actual traveling salaried representative as to business transacted through such attorney in fact or salaried representative of any reciprocal exchange or inter-insurance exchange admitted to do business in Texas.

(c) Any adjuster of losses, and/or inspector of risks, for an Insurance Carrier licensed to do business in Texas.

(d) Any General Agent or State Agent or Branch Manager representing an admitted and licensed Insurance Company or Carrier, or Insurance Companies or Carriers, in a supervisory capacity.

(e) The actual attorney in fact for any Lloyds.

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

(f) All incorporated or unincorporated Mutual Insurance Companies, their agents and representatives, organized and/or operating under and by authority of Senate Bill No. 121, 45th Legislature, Acts 1937.¹

(g) Nothing in this entire Act shall ever be construed to apply to any member, agent, employee, or representative of any County Mutual Fire Insurance Company as exempted under Senate Bill No. 121, 45th Legislature, Acts 1937.¹

Fees, disposition of; appropriations

Sec. 21. The fees herein provided for, when collected, shall be placed with the State Treasurer in a separate fund, which shall be known as the Local Recording Agents' and Solicitors' License Fund, provided that no expenditures shall be made from said fund except under authority of the Legislature as set forth in the General Appropriation Bill; provided further that no appropriation shall ever be made out of the General Revenue Fund for the purpose of administering this Act or any provision thereof.

Rebates or inducements forbidden

Sec. 22. It shall be unlawful for any Local Recording Agent to pay, allow, give or offer to pay, allow or give, directly or indirectly, any rebate of premiums payable, any commission, or any paid employment or contract for service of any kind or anything of value whatsoever, or any valuable consideration or inducement whatever, not specified in the policy or contract of insurance for or on account of the solicitation or negotiation of contracts of insurance on property or risks in this State to any person, firm or corporation, other than a duly licensed Solicitor appointed by such Local Recording Agent, or to another Local Recording Agent.

It shall be unlawful for any Solicitor to pay, allow or give or offer to pay, allow or give, directly or indirectly, any rebate of premiums payable, any commission, or any paid employment or contract for service of any kind, or anything of value whatsoever, or any valuable consideration or inducement whatever, not specified in the policy or contract of insurance, for or on account of the solicitation or negotiation of contracts of insurance on property or risks in this State to any person, firm or corporation.

Repeal; laws not in conflict not affected; act cumulative

Sec. 23. All laws or parts of laws pertaining to any phase of the Insurance business, which are in conflict herewith, shall be and the same are hereby repealed; but all laws, Civil and Criminal, affecting Insurance Agents, and/or Insurance Companies or Insurance Carriers or the Insurance business, which are not in conflict herewith, shall not be affected by the provisions of this Act; but this Act shall be deemed cumulative of laws.

Violations of act

Sec. 24. Any person or any member of any firm who violates any of the provisions of Sections 4, 15 and 22 of this Act shall be guilty of a misdemeanor, and upon conviction in a Court of competent jurisdiction, shall be punished by a fine of not less than One (\$1.00) Dollar nor more than One Hundred (\$100.00) Dollars.

Enforcement of act

Sec. 25. The Attorney General, or any District or County Attorney, or the Board of Insurance Commissioners, may institute any injunction proceeding or such other proceeding to enforce the provisions of this Act, and to enjoin any person, firm or corporation from engaging or at-

tempting to engage in any of the business in violation of this Act or any of the provisions thereof. The provisions of this section are cumulative of the other penalties or remedies provided for in this Act.

Administration of act

Sec. 26. The administration of the provisions of this Act shall be vested in the Board of Insurance Commissioners, and of the administrative officers of the various Counties in which the violation of any provision of this Act may occur; and the personnel charged with the direct supervision of the Act, except the regularly elected law enforcement officers and their appointees, shall be responsible to and serve at the will of the Board of Insurance Commissioners. It shall be the duty of the Board of Insurance Commissioners and the Attorney General, and of the District and County Attorneys in Counties where violations of this Act may occur, to see that its provisions are at all times obeyed, and to make such investigations as will prevent or detect the violation of any provision thereof. The Board of Insurance Commissioners shall at once lay before the District or County Attorney of the proper County, any evidence which shall come to its knowledge, of criminality or threatened criminality under this Act. In the event of the neglect or refusal of such Attorney to institute and prosecute such violation, or to enforce the other remedies provided by this Act, the Board shall submit such evidence to the Attorney General, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law upon District or County Attorneys. Provided, any person having knowledge of the violation of the provisions of this Act may file a complaint for such violation with the proper officers as in other misdemeanor cases. The Board of Insurance Commissioners is given the power and authority, as a requisite for granting or renewing a license to Insurance Companies or Insurance Carriers, their Local Recording Agents or Solicitors, to require answers under oath to any questions propounded by the said Board or under its authority, and touching any phase of insurance business in the State of Texas in which said Insurance Company or Insurance Carrier, or such person or firm, shall be engaged, and to require such person or firm seeking appointment as Local Recording Agent to submit his books, records, and accounts, insofar as they may be material to any phase of insurance business, to examination and inspection by the Board or any person acting under its authority.

Partial invalidity

Sec. 27. If any section, subsection, sentence, clause, or phrase of this Act shall for any reason be held to be void or unconstitutional, such provision shall not affect the validity of the remaining portions of this Act. Acts 1941, 47th Leg., p. 374, ch. 212.

¹ Article 4860a—20.

Approved May 6, 1941.

Effective May 6, 1941.

Section 28 of the Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

Life insurance and other insurance agents, see article 5068b.

Art. 5068b. Licensing of agents

Agents other than life, health and accident, etc., see article 5062b.

CHAPTER TWENTY-TWO—PROVISIONS APPLICABLE TO CERTAIN SPECIFIED COMPANIES

Art.

5068—2. Reduced benefits or excluded coverage; mutual life policies au-

thorized to provide in cases of military service, hazardous occupations, etc. [New].

Art. 5068—1. Mutual Assessment Companies—Scope of Act

Section 1. This Act shall apply to and embrace all insurance companies and associations, whether incorporated or not, which issue policies or certificates of insurance on the lives of persons, or provide health and accident benefits, upon the so-called mutual assessment plan, or whose funds are derived from the assessments upon its policyholders or members, and shall, in fact apply to all life, health and accident companies or associations which do not come within the provisions of Chapter 3, Chapter 5, Chapter 7, Chapter 8, Chapter 9, Chapter 18, Chapter 19, or Chapter 20, Title 78 of the Revised Civil Statutes of Texas, except that it shall not apply to associations not operated for profit composed only of the members of a particular religious denomination, and which do not provide insurance benefits in excess of One Thousand (\$1,000.00) Dollars, on any one person and which do not pay any officer a salary in excess of One Hundred (\$100.00) Dollars per month. This Act shall include local mutual aid associations; statewide life; or life, health and accident associations; mutual assessment life, health and accident associations; burial associations; and similar concerns by whatsoever name or class designated, whether specifically named or not.

This Act does not enlarge the powers or rights of any of such associations nor enlarge the scope of their legal or corporate existence; nor authorize the creation of any association or corporation to do any of the sorts of business above indicated, where such creation is not now specifically permitted by law. The laws prohibiting or limiting such creation and the exercise of corporate power are not affected by this Act. As amended, Acts 1941, 47th Leg., p. 871, ch. 542, § 1.

Approved June 30, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941, read as follows: "If any word, phrase, clause, sentence, paragraph, or provision of this Act is declared unconstitutional, it

is the intent of the Legislature that the remaining portion thereof shall not be affected, but that such remaining portions remain in full force and effect."

Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 5068—2. Reduced benefits or excluded coverage; mutual life policies authorized to provide in cases of military service, hazardous occupations, etc.

Any company or association licensed and operating under Senate Bill No. 135, Acts of the Regular Session of the Forty-sixth Legislature,¹ may with the approval of the Board of Insurance Commissioners issue policies providing for reduced benefits when death or injury occurs while the insured is engaged in military, naval, aerial service, or aerial flight in time of peace or war; or while engaged in certain hazardous occupations to be named in the policy; or if death or injury is caused by mob violence or legal execution; or reduce or exclude benefits for sickness from certain named causes. Attention shall be called on the front page of the policy to any reduction or exclusion of benefits provided herein, and the circumstances or conditions under which such reduction or exclusion of benefits are applicable shall be plainly stated

in the policy. The provisions of this Act shall apply to all outstanding policies already containing such limitations. Acts 1941, 47th Leg., p. 694, ch. 433, § 1.

1 Article 5068—1.

Approved and effective June 2, 1941.

Section 2 of the Act of 1941 read as follows: "If any section, clause, paragraph, or sentence of this Act shall be declared unconstitutional, it is hereby declared to be the intention of the Legislature that the remainder of such Act shall remain in full force and effect."

Section 3 repealed all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that mutual life insurance companies and associations, operating under Senate Bill No. 135, Acts of the Regular Session of the Forty-sixth

Legislature, may with the approval of the Board of Insurance Commissioners place provisions in the policies issued providing for the payment of reduced benefits or the exclusion of coverage if death or injury occurs while the insured is engaged in military, naval, aerial service, or aerial flight in time of peace or war; or while engaged in certain hazardous occupations to be named in the policies; or if death or injury is caused by mob violence or legal execution; and providing for reducing or excluding benefits for sickness from certain named causes; providing a saving clause; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 694, ch. 433.

TITLE 79—INTEREST

Art. 5074. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 93, Vernon's Texas Rules of Civil Procedure.

TITLE 82—JUVENILES

Art.

5139B. Juvenile Board in counties of 74,000 to 83,000 [New].

Art. 5138a. Parental homes and schools for delinquents in certain counties

Section 1. Counties having a population of not less than three hundred ninety thousand (390,000) and not more than five hundred thousand (500,000), according to the last preceding Federal Census, and containing a city having a population of not less than two hundred ninety thousand (290,000) and not more than three hundred fifty thousand (350,000), according to the last preceding Federal Census, shall be jointly empowered and authorized with said city to establish, own and operate a parental home and school for the training of dependent and delinquent youth resident of that county or city. All juveniles of the county who may be declared to be dependent by any of the District Courts of the county, or found to be delinquent by any of the District Courts or the County Court of the county may be committed to the parental home owned and operated by the city and county, or to any home, school, institution or reformatory as now provided by law. The commitment of any dependent child to said parental home shall be in the manner now provided in Title 43 of the Revised Civil Statutes of 1925.¹ The commitment of any delinquent child to

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

said parental home shall be in the manner now provided in Title 16 of the Code of Criminal Procedure of 1925.² As amended, Acts 1941, 47th Leg., p. 372, ch. 209, § 1; Acts 1941, 47th Leg., p. 1340, ch. 606, § 1.

¹ Article 2329 et seq.

² Vernon's Rev.Crim.Code, arts. 1083-1093.

Acts 1941, 47th Leg., p. 1340, ch. 606, approved and effective July 9, 1941.

Section 3 of Act of 1941, 47th Leg., p. 1340, ch. 606, declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1941, 47th Leg., p. 372, ch. 209, filed without the Governor's signature, May 3, 1941.

Effective May 13, 1941.

Section 2 of amendatory Act of 1941, p. 372, ch. 209 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 5139. County Juvenile Board

Additional salary to county judge in certain counties, see article 3912e-5.

Art. 5139B. Juvenile Board in counties of 74,000 to 83,000

In any county having a population of not less than seventy-four thousand (74,000) inhabitants and not more than eighty-three thousand (83,000) inhabitants, according to the last preceding Federal Census, the Judges of the several District Courts of such county, together with the County Judge of such county, are hereby constituted a Juvenile Board for such county. The annual salary of each of the Judges of the District Courts of such county, as members of said Board, shall be Six Hundred (\$600.00) Dollars, which salary shall be in addition to all other salaries and compensation received by said District Judges, and said additional salary shall be paid monthly out of the General Funds of such county, upon the order of the Commissioners' Court. Added Acts 1941, 47th Leg., p. 552, ch. 349, § 1.

Filed without the Governor's signature, May 28, 1941.

Effective May 28, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws to the

extent of such conflict only. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 83—LABOR

Labor disputes, assemblage to prevent persons from engaging in lawful vocation prohibited, see Vernon's Rev.Pen.Code, art. 1621b.

CHAPTER TEN A—TEXAS RELIEF COMMISSION

Art. 5190a. Creation and term of office of commission

Time limit for presentation of disbursing orders issued for general or transient relief before October 1936, see article 695d.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Art.

5221b—7b. Moneys appropriated to pay benefits and refunds [New].

Art.

5221b—9b. Destruction of records or documents [New].

5221b—24. Repeal; saving clause [New].

Art. 5221b—1. Benefits; amount and payment; duration

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—2. Benefit eligibility conditions

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—3. Disqualification for benefits

An individual shall be disqualified for benefits:

(a) If the Commission finds that he has left his last employment voluntarily without good cause connected with his employment. Such disqualification shall be for not less than one (1) nor more than eight (8) benefit periods immediately following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

(b) If the Commission finds that he has been discharged for misconduct connected with his last employment. Such disqualification shall be for not less than one (1) nor more than eight (8) benefit periods immediately following the filing of a valid claim, as determined by the Commission in each case according to the seriousness of the misconduct.

(c) If the Commission finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall be for not less than one (1) nor more than four (4) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and pros-

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

pects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act,¹ no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any benefit period with respect to which the Commission finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work;

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate business in separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any benefit period with respect to which he is receiving or has received remuneration in the form of:

(1) Wages in lieu of notice;

(2) Compensation for temporary partial disability, temporary total disability or total and permanent disability under the Workmen's Compensation Law of any State or under a similar law of the United States;

(3) Old Age Benefits under Title II of the Social Security Act as amended, or similar payments under any Act of Congress,² or a State Legislature, or employer pension plan, provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such benefit period, if otherwise eligible, benefits reduced by the amount of such remuneration.

(f) In determining the number of benefit periods during which any individual is entitled to receive benefits in a benefit year, the Commission shall deduct any period of disqualification as provided in subsections (a), (b), and (c) of this Section from the total number of benefit periods during which he would otherwise be entitled to receive benefits except for such disqualification; provided, that in no case shall the number of benefit periods so deducted exceed the number of benefit periods during which the claimant is then eligible to receive benefits except for such disqualification. As amended Acts 1941, 47th Leg., p. 1378, ch. 625, § 1(a).

¹ Article 5221b—1 et seq.

² 42 U.S.C.A. § 401 et seq.

Approved and effective July 23, 1941.

Section 3 of the amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

Art. 5221b—4. Claims for benefits; review of decisions; appeals; procedure

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—5. Contributions

Section 7. (a) Payment: On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act,¹ with respect to wages payable for employment occurring during such calendar year. Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such regulation as the Commission may prescribe, and shall not be deducted in whole or in part from the wages of individuals in such employer's employ.

(b) Rate of Contributions: Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment;

(1) Nine-tenths of one (9/10 of 1%) per centum with respect to employment during the calendar year 1936;

(2) One and eight-tenths (1-8/10%) per centum with respect to employment during the calendar year 1937;

(3) Two and seven-tenths (2-7/10%) per centum with respect to employment during the calendar years 1938, 1939, and 1940;

(4) With respect to employment after December 31, 1940, the percentage determined pursuant to subsection (c) of this section.

(c) Experience Rating: (1) For each calendar year commencing after December 31, 1940, the contribution rate of each employer who has had three (3) years of compensation experience shall be determined by the fund's maximum liability for benefits to his employees who have received benefits, modified by the state experience as to average duration of benefit payments, as provided below.

(2) When in any benefit year beginning after December 31, 1937, an employee is first paid benefits for total or partial unemployment, his wages during his base period shall be termed the "employee's benefit wages", and shall be treated for the purposes of this paragraph as though they had been paid in the calendar year in which such first benefit is paid. Benefit wages shall include only the wages available for wage credits earned from employers in a base period. As applied to the calendar year 1938, and the first calendar quarter of 1939, the term "base period" shall mean the period beginning with the first day of the nine (9) completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the first day of an individual's benefit year except that where there are not nine (9) completed calendar quarters preceding the first day of an individual's benefit year, "base period" shall mean the period beginning with the first day of the first completed calendar quarter and ending with the last day of the next to the last completed calendar quarter immediately preceding the first day of an individual's benefit year, and except that the definition of "base period" contained in this sentence shall be applicable only to "base period" as used in the computation of an employer's experience rating, in accordance with the provisions of subsection 7(c) of this section.

(3) The employer's benefit wages for a given calendar year shall be the total of the benefit wages received from him by all of his employees or former employees who receive their first benefit payment of a given benefit year in such calendar year.

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

(4) The benefit wage ratio of each employer shall be a percentage equal to the total of his benefit wages for the most recent three (3) consecutive completed calendar years divided by his total taxable payroll for the same three (3) years on which contributions have been paid to the Commission on or before January 31 of the calendar year with respect to which his benefit wage ratio is determined.

(5) For any calendar year the total benefits paid from the fund, less all amounts credited to the fund except employers' contributions collected under this section, and except interest earned on the fund, shall be termed the "amount required from employers." The amount required from employers, divided by the state-wide total of benefit wages of all employers for that calendar year, after adjustments to the nearest multiple of one (1%) per centum shall be termed the "state experience factor." The state experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year and such determination shall be made upon the basis of figures for the preceding calendar year.

(6) The contribution rate for each employer for the current year, to be applied to his current payroll shall be in accordance with the following table based upon the state experience factor and his benefit wage ratio:

When the State Experience Factor Is

	If the Employer's Benefit Wage Ratio Does not Exceed:						
	50%	100%	150%	200%	250%	300%	350%
1%							
2	25	50	75	100	125	150	175
3	17	33	50	66	83	100	117
4	13	25	38	50	63	75	88
5	10	20	30	40	50	60	70
6	8	17	25	34	42	50	58
7	7	14	21	29	36	43	50
8	6	13	19	25	31	38	44
9	6	11	16	22	28	33	39
10	5	10	15	20	25	30	35
11	5	9	14	18	23	27	32
12	4	8	13	17	21	25	29

When the State Experience Factor Is

	If the Employer's Benefit Wage Ratio Does Not Exceed:						
	4%	8%	12%	15%	19%	23%	27%
13%							
14	4	7	11	14	18	21	25
15	3	7	10	13	17	20	23
16	3	6	9	12	16	19	22
17	3	6	9	12	15	18	21
18	3	6	8	11	14	17	19
19	3	5	8	11	13	16	18
20	3	5	8	10	13	15	18
21	2	5	7	10	12	14	17
22	2	5	7	9	11	14	16
23	2	4	7	9	11	13	15
24	2	4	6	8	10	12	15

The Employer's Contribution Rate Shall be:

.5%	1.0%	1.5%	2.0%	2.5%	3.0%	3.5%
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If the employer's benefit wage ratio exceeds the amount in the last column of the table on the line for the current year's state experience factor, his contribution rate shall be four (4%) per centum.

(7) Each employer's rate shall be two and seven-tenths (2-7/10%) per centum except as otherwise provided in this section. No employer's rate shall be less than two and seven-tenths (2-7/10%) per centum for any year, unless and until his account has been chargeable with benefits throughout the thirty-six (36) consecutive calendar months immediately preceding the beginning of the calendar year for which rates are determined.

(8) For the purposes of this section, benefits shall be deemed to have been paid at the time the claim therefor shall have been certified by the Commission to the State Comptroller.

(9) For the purposes of this section, two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form, shall be deemed to be a single employing unit if the Commission finds that (i) immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto; and (ii) immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employing unit or units; and (iii) the successor has assumed liability for all contributions required of the predecessor employing unit or units; and (iv) the consideration of such two or more employing units as a single employing unit for the purposes of this section would not be inequitable.

No rate of less than two and seven tenths (2-7/10%) per centum will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this section for any period subsequent to such succession except in accordance with regulations prescribed by the Commission, which regulations will be consistent with Federal requirements for additional credit allowance in Section 1602 of the Internal Revenue Code,² and consistent with the provisions of this Act, except that such regulations may establish a computation date for any such period different from the computation date generally prescribed by this Act, and may define the words "calendar year" as meaning a twelve (12) consecutive month period ending on the same day of the year as that on which such computation date occurs. As amended Acts 1941, 47th Leg., p. 2, ch. 2, § 1; Acts 1941, 47th Leg., p. 101, ch. 83, § 1.

¹ Articles 5221b—1 to 5221b—22.

² 26 U.S.C.A. § 1602.

Acts 1941, 47th Leg., p. 101, ch. 83, approved and effective March 27, 1941.

Section 2 of Acts 1941, 47th Leg., p. 101, ch. 83, declared an emergency and provided that the Act should take effect from and after its passage.

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1941, 47th Leg., p. 2, ch. 2, approved and effective Feb. 4, 1941.

Section 2 of Acts 1941, 47th Leg., p. 2, ch. 2, read as follows: "Sec. 2. The provisions of this Act shall repeal all parts of Chapter 482, General and Special Laws, 44th Legislature, Third Called Session, as

amended by Chapter 67, General and Special Laws, 45th Legislature, Regular Session, as amended by Chapter 2, General Laws, 46th Legislature, Regular Session, [Arts. 5221b—1 to 5221b—22.] in conflict herewith, and all laws or parts of laws in conflict herewith, but shall in no way be construed as forfeiting or waiving any rights of the State of Texas or the Texas Unemployment Compensation Commission, including without limiting the foregoing the right to collect contributions, interest or penalties that have accrued under said Chapter, and the right of prosecution for violating any provision thereof."

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—6. Duration of coverage

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—6a. Seasonal industry; definitions; duration of coverage; rules and regulations of Commission

(1) As used in this Section, the term "seasonal employer" means an employer who customarily lays off or discharges for a period of at least eight (8) consecutive weeks, which period regularly recurs at some time during each calendar year, forty (40) per cent or more of the individuals in his employment. The Commission shall place seasonal employers in categories of seasonal industries, after a determination in a like manner to that provided in subsection (2) below for the Commission's determination with respect to "seasonal industry."

(2) The term "seasonal industry" means an industry in which, because of the seasonal nature thereof, it is customary for seasonal employers to lay off or discharge for a period of at least eight (8) consecutive weeks, which period regularly recurs at some time during each calendar year, forty (40) per cent or more of the individuals in their employment. The Commission shall, after a study of previous employment records during a reasonable prior period, as determined by the Commission, and after investigation and hearing, determine and may thereafter from time to time redetermine the normal seasonal period or periods during which the workers, employees, or individuals in employment are ordinarily employed for the purpose of carrying on the seasonal operations in each seasonal industry. Until such determination by the Commission, no industry shall be deemed to be seasonal.

(3) A "seasonal employee" or "seasonal worker or individual in seasonal employment" means a worker, employee, or individual who belongs to that class of individuals ordinarily laid off or discharged by a seasonal employer in a seasonal industry for a period of not less than eight (8) consecutive weeks, which period regularly recurs at some time during each calendar year, except that the term shall not include workers or employees or individuals in employment in occupations which, after the Commission has studied the nature thereof and employment records of workers engaged therein in the manner provided for determinations with respect to seasonal industry, are found to be occupations in which employment regularly continues throughout substantially all of the calendar year.

(4) Wages payable to seasonal workers by seasonal employers in seasonal industries shall be used as wage credits only to the extent of that percentage arrived at by dividing the total number of weeks in the calendar year during which such particular seasonal industry regularly operates by the total number of weeks in the calendar year.

(5) Under this Section, the Commission is authorized and empowered to classify employers as being in seasonal industries, after first determining that such employer is a seasonal employer, and to determine the average seasonal period of operation of each individual seasonal employer, and to determine who are seasonal workers or seasonal employees or individuals in seasonal employment, and to determine the amount of wages for seasonal employment which are available as a basis for the payment of benefits to seasonal workers.

(6) The Commission shall have the power to prescribe, and shall prescribe, fair and reasonable regulations for carrying into effect the provisions of this Section, and shall prescribe regulations applicable to

seasonal workers or employees for determining the amounts of and the periods during which benefits shall be payable to them. The Commission may prescribe such other fair and reasonable regulations with respect to such other matters relating to benefits for seasonal workers or employees as the Commission finds necessary and consistent with the policy and purposes of this Act. Regulations prescribed pursuant to this Section shall supersede any inconsistent provisions of this Act or of the Commission's Regulations, but shall, so far as practicable, secure results reasonably similar to those provided in analogous provisions of this Act. As amended Acts 1941, 47th Leg., p. 746, ch. 467, § 1.

Passed over the Governor's veto, May 29, 1941.

Effective July 1, 1941.

Section 2 of the amendatory Act of 1941, makes the act effective July 1, 1941.

Section 3 read as follows: "The provisions of this Act shall repeal all parts of

Chapter 482, General and Special Laws, Forty-fourth Legislature, Third Called Session, as amended, in conflict herewith, and all other laws or parts of laws in conflict herewith."

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—7. Unemployment compensation fund

(a) Establishment and Control: There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Compensation Fund, which shall be administered by the Commission exclusively for the purposes of this Act. This fund shall consist of (1) all contributions collected under this Act, together with any interest thereon collected pursuant to Section 14 of this Act;¹ (2) all fines and penalties collected pursuant to the provisions of this Act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; (5) all earnings of such property or securities; and (6) all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided.

(b) Accounts and Deposits: The State Treasurer shall be treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the Commission, and the Comptroller shall issue warrants upon it in accordance with such regulations as the Commission shall prescribe. The Treasurer shall maintain within the fund three (3) separate accounts; (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. All moneys in the clearing account, after clearance thereof, shall, except as herein otherwise provided, be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended,² any provisions of the law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. Refunds payable pursuant to Section 14 of this Act¹ may be paid from the clearing account or the benefit account upon warrants issued by the Comptroller under the direction of the Commission. The benefit account shall consist of all moneys requisitioned from this State's account in the Unemployment Trust Fund in the United States Treasury. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the Commission, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or

premium shall be paid out of the fund. All moneys in this fund shall be deposited, administered and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. The State Treasurer shall be liable, on his official bond, for the faithful performance of his duties in connection with the Unemployment Compensation Fund provided under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability on any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

(c) Withdrawals: Moneys requisitioned from this State's account in the Unemployment Trust Fund shall be used exclusively for the payment of benefits and for refunds pursuant to Section 14.¹ The Commission shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits and refunds for a reasonable future period. Upon receipt thereof, the Treasurer shall deposit such moneys in the benefit account, and the Comptroller shall issue his warrants for payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account, and refunds from the clearing account, shall not be subject to any provision of law which may require itemization or other formal release by State officers of money in their custody. All warrants issued for the payment of benefits and refunds shall bear the signature of the Treasurer and the countersignature of a member of the Commission, or its duly authorized agent, for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund as provided in Subsection (b) of this Section.

(d) If a warrant has been issued by the Comptroller in payment of benefits as provided under this Act, and if the claimant entitled to receive such warrant has lost or loses, or for any reason failed or fails to receive such warrant after such warrant is or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue to claimant a duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, 1925, but in no event shall a duplicate warrant be issued after one year from the date of the original warrant.

If, after any warrant has been issued by the Comptroller payable to a claimant for benefits under the provisions of this Act, and such warrant shall have been lost or misplaced, or if claimant for any reason fails or refuses to present said warrant for payment within twelve (12) months after the date of issuance of such warrant, such warrant shall be cancelled, and thereafter no payment shall be made by the Treasurer on such warrant, and no duplicate warrant in place thereof shall ever be issued.

(e) Management of Funds Upon Discontinuance of Unemployment Trust Fund: The provisions of Subsections (a), (b), (c), and (d), to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues

to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Compensation Fund of this State, shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Commission, in accordance with the provisions of this Act; provided, that such moneys shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission. As amended Acts 1941, 47th Leg., p. 261, ch. 178, § 1.

1 Article 5221b—12.

2 42 U.S.C.A. § 1104.

Approved April 24, 1941.

Effective April 24, 1941.

Section 4 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

For sections 2 and 3 of this act, see articles 5221b—7b and 5221b—9b.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—7a. Transfer of funds

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—7b. Moneys appropriated to pay benefits and refunds

It is hereby specifically provided that all moneys now on deposit to the credit of the Unemployment Compensation Fund and any moneys received for the credit of such fund, are hereby appropriated for the payment of benefits and refunds as authorized by the provisions of the Act. Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 9-A, added Acts 1941, 47th Leg., p. 261, ch. 178, § 2.

Approved April 24, 1941.

Effective April 24, 1941.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Arts. 5221b—8 to 5221b—9a.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—9b. Destruction of records or documents

Any records or documents received or maintained by the Commission under the Texas Unemployment Compensation Law, or rules and regulations promulgated thereunder, may be destroyed under such safeguards as will protect the confidential nature of such records two (2) years after the date on which such records or documents last served any useful, legal, or administrative purpose in the administration of the Texas Unemployment Compensation Law, or in the protection of the rights of anyone on orders from the Commission; or the Commission

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may destroy such records prior to such time on providing for authentic photographs, calligraphs, or other processes to be taken thereof under the rules and regulations prescribed by the Commission. Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 11-B, added Acts 1941, 47th Leg., p. 261, ch. 178, § 3.

Approved April 24, 1941.
Effective April 24, 1941.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—10. Employment service

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—11. Unemployment Compensation Administration Fund

(a) Special Fund: There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Commission and shall be continuously available to the Commission for expenditure in accordance with the provisions of this Act, and shall not lapse at any time or be transferred to any other fund. All moneys in this fund which are received from the Federal Government or any agency thereof shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this Act. The fund shall consist of all moneys appropriated by this State; all moneys received from the United States of America, or any agency thereof, including the Social Security Board; all moneys received from any other source for such purpose; all moneys collected by the Commission as costs or fees charged by the Commission for furnishing photostatic or certified copies of records of the Commission, or fees charged by the Commission for making audits pursuant to the authority granted in this Act, and shall also include any moneys received from any agency of the United States of America or any other State as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Unemployment Compensation Administration Fund, or by reason of damage to equipment or supplies purchased from moneys in such fund, and any proceeds realized from the sale or disposition of such equipment or supplies which may no longer be necessary for the proper administration of this Act. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund provided under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any Surety Bond for losses sustained by the Unemployment Compensation Administration Fund shall be deposited in said fund.

(b) The Commission is authorized to furnish to any person entitled thereto upon application therefor photostatic or certified copies of any records in its possession, the publication of which is not prohibited by this Act, and the Commission shall charge therefor a fee at the rate of Fifty (50) Cents per page for each and every photostatic or certified copy of any record or document so furnished.

(c) Reimbursement of Fund: If any moneys received after June 30, 1941, from the Social Security Board under Title III of the Social Security Act, or any unencumbered balances in the Unemployment Compensation Administration Fund as of that date, or any other Federal moneys granted to the Unemployment Compensation Commission for the administration of this Act, are found by the Social Security Board, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this Act, it is the policy of this State that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this State to the Unemployment Compensation Administration Fund for expenditure as provided in Subsection (a) of this section. Upon receipt of notice of such a finding by the Social Security Board, the Commission shall promptly report the amount required for such reimbursement to the Governor and the Governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount. As amended Acts 1941, 47th Leg., p. 594, ch. 364, § 1.

Approved and effective May 21, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws. Section 3 declared an emergency

and provided that the Act should take effect from and after its passage.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Arts. 5221b—12 to 5221b—16.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—17. Definitions

As used in this Act,¹ unless the context clearly requires otherwise:

(a) (1) "Base period" means the first four (4) out of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

(2) "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the Commission may by regulation prescribe.

(b) (1) "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

(2) "Benefit year," with respect to any individual, means the fifty-two consecutive week period beginning with the day on which the first valid claim for benefits is filed, and thereafter the fifty-two consecutive week period beginning with the day on which his next valid claim for benefits is filed after the termination of his last preceding benefit year.

(c) "Commission" means the Unemployment Compensation Commission established by this Act.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund required by this Act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof or the legal representative of a deceased person, which has or, subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed

by a single employing unit for all purposes of this Act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year has or had in employment eight (8) or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this Act) and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under Paragraph (1) of this subsection;

(4) Any employing unit which, together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interest, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under Paragraph (1) of this subsection;

(5) Any employing unit which, having become an employer under Paragraphs (1), (2), (3), or (4), has not, under Section 8, ceased to be an employer subject to this Act;

(6) For the effective period of its election pursuant to Section 8 (b) ² any other employing unit which has elected to become fully subject to this Act.

(g) (1) "Employment" means any service performed prior to October 1, 1941, which was employment as defined in this Section prior to such date, and subject to the provisions of this subsection, services performed on and after October 1, 1941, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, provided that any services performed by an individual for wages shall be deemed to be employment subject to this Act unless and until it is shown to the satisfaction of the Commission that such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this State, if:-

(A) The service is localized in this State; or

(B) The service is not localized in any State but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any State

in which some part of the service is performed but the individual's residence is in this State.

(3) (A) Service not covered under Paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State, shall be deemed to be employment subject to this Act if the individual performing such services is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this Act.

(B) Services covered by reciprocal agreements authorized by this Act between the Commission and the agency charged with the administration of any other State or Federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State, shall be deemed to be employment, if the Commission has approved an election of the employing unit for whom such services were performed pursuant to which the entire service of such individual during the period covered by such election is deemed to be employment subject to this Act.

(4) Service shall be deemed to be localized within a State, if:

(A) The service is performed entirely within such State; or

(B) The service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) The term "employment" shall not include:

(A) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(B) Service with respect to which unemployment compensation is payable under an Unemployment Compensation System established by an Act of Congress; provided that the Commission is hereby authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 11 (b) of this Act³ for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

(C) Agricultural labor;

(D) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(E) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(F) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) years in the employ of his father or mother;

(G) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

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(H) Service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 101 of the Internal Revenue Code,⁴ if (i) the remuneration for such service does not exceed Forty-five Dollars (\$45), or (ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the Home Office, or is ritualistic service in connection with any such society, order, or association, or (iii) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

(I) Service performed in the employ of this State or of any other State, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this State or by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of this State or of one or more States or political subdivisions to the extent that the instrumentality is with respect to such service, exempt under the Constitution of the United States from the tax imposed by Section 1600 of the Federal Internal Revenue Code;⁵

(J) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) eighty-five (85) per cent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(K) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(L) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under Section 101 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed Forty-five Dollars (\$45) (exclusive of room, board, and tuition);

(M) Service performed in the employ of a foreign government (including wages as a consular or other officer or employee, or a nondiplomatic representative);

(N) Service performed in the employ of an instrumentality wholly owned by a foreign government (i) if the service is of a character similar to that performed in foreign countries by the employees of the United States Government or of an instrumentality thereof; and (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(O) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in

the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to State law;

(P) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(Q) Service performed by an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

“(R) Service covered by an arrangement between the Commission and the agency charged with the administration of any other State or Federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit’s duly approved election are deemed to be performed entirely within such agency’s State or under such Federal law.

(S) Included and Excluded Service. If the services performed during one half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection the term ‘pay period’ means a period (of not more than thirty-one (31) consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing him. This subsection shall not be applicable with respect to services performed in any pay period by an individual for the person employing him, where any of such service is excepted by Section 19 (g) (5) (B).

(h) “Employment office” means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State controlled system of public employment offices.

(i) “Fund” means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(j) “Partial Unemployment”: An individual shall be deemed ‘partially unemployed’ in any benefit period of less than full time work if his wages payable for such benefit period fail to equal Four Dollars (\$4) more than the benefit amount he would be entitled to receive if totally unemployed and eligible.

(k) “State” includes, in addition to the States of the United States of America, Alaska, Hawaii, and the District of Columbia.

(l) “Total Unemployment”: An individual shall be deemed ‘totally unemployed’ in any benefit period during which he performs no services and with respect to which no wages are payable to him. An individual’s benefit period of total unemployment shall be deemed to commence only after his registration pursuant to Section 4 (a) of this Act.⁶ As used in this Subsection (l) and Subsection (j), the term “wages” shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of Six Dollars (\$6) in any one benefit period, and the term “services” shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than Six Dollars (\$6) in any one benefit period is payable.

(m) “Unemployment Compensation Administration Fund” means the Unemployment Compensation Administration Fund established by this Act, from which administrative expenses under this Act shall be paid.

(n) "Valid Claim" means a claim for benefits by an individual who has earned qualifying wages as provided in Section 4 (d) of this Act.

(o) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of all remuneration payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission, providing, however, that after October 1, 1941, the term "wages" shall not include:

(1) That part of the remuneration which, after remuneration equal to Three Thousand Dollars (\$3,000) has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year;

(2) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(3) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under Section 1400 of the Internal Revenue Code⁷ or (B) of any payment required from an employee under a State unemployment compensation law; or

(4) Dismissal payments which the employer is not legally required to make.

(p) "Week" means such period of seven (7) consecutive calendar days as the Commission may prescribe.

(q) "Benefit Amount": An individual's "benefit amount" means the amount of benefits he would be entitled to receive for one benefit period of total unemployment.

(r) "Benefit Period": An individual's "benefit period" means such period of fourteen (14) consecutive calendar days as the Commission may by regulation prescribe. As amended, Acts 1941, 47th Leg., p. 1378, ch. 625, § 1.

¹ Article 5221b—1 et seq.

² Article 5221b—6.

³ Article 5221b—9.

⁴ 26 U.S.C.A. § 101.

⁵ 26 U.S.C.A. § 1600.

⁶ Article 5221b—2.

⁷ 26 U.S.C.A. § 1400.

Arts. 5221b—17a to 5221b—22.

Saving clause of 1941 act repealing conflicting provisions, see article 5221b—24.

Art. 5221b—24. Repeal; saving clause

The provisions of this Act shall repeal all parts of Chapter 482, General and Special Laws, Forty-fourth Legislature, Third Called Session, as amended by Chapter 67, General and Special Laws, Forty-fifth Legislature, Regular Session, as amended by Chapter 2, Title "Labor," General Laws, Forty-sixth Legislature, Regular Session,¹ in conflict herewith, and all laws or parts of laws in conflict herewith, but shall in no way be construed as forfeiting or waiving any rights of the State of Texas or the Texas Unemployment Compensation Commission, including without limiting the foregoing, the right to collect contributions, interest, or penalties that have accrued under said Chapter, and the right of prosecution for violating any provision thereof. Acts 1941, 47th Leg., p. 1378, ch. 625, § 2.

¹ Article 5221b—1 et seq.

Effective date. See note under article 5221b—3.

TITLE 84—LANDLORD AND TENANT

Arts. 5228—5231. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 610—614, Vernon's Texas Rules of Civil Procedure.

Arts. 5233—5235. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 602, 615, 616, 619, 620, Vernon's Texas Rules of Civil Procedure.

TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE

2. FEDERAL USE

Art.

5248e. Cities or counties, acting separately or jointly, may acquire

lands for use of United States Government; contracts; validation of agreements [New].

2. FEDERAL USE

Art. 5242. 5252 Authorized uses

Acquisition by cities or counties of lands for use of United States Government, and leasing thereof, see article 5248e.

Lease of Camp Hulen to United States: Acts 1941, 47th Leg., p. 70, ch. 57, reads as follows:

"Section 1. That the Governor of the State of Texas be and he is hereby authorized and empowered to lease and demise to the United States for a period of one (1) year or any portion thereof, renewable at the option of the United States from year to year, upon the same terms and conditions specified in the original lease, for additional periods not to exceed the total of twenty-five (25) years, for a nominal consideration, and on such other terms and conditions as may be agreed upon by him and the duly authorized representative of the United States, those lands or any parcel of the same now owned and held in trust by the State of Texas for the use and benefit of the 36th Division, Texas National Guard, lying and being at or near Palacios, Matagorda County, Texas, known as Camp Hulen, together with such buildings, systems, fixtures, and appurtenances thereon, as he may deem advisable.

"Provided, however, that the Governor of the State of Texas shall reserve all oil, gas and mineral rights, together with the rights of ingress and egress, and to explore, drill and operate therefor; but provided further that any such operations shall not unnecessarily interfere with the uses for which this lease is granted and that no well shall be located within one hundred (100) feet of any building on the leased property without the consent of the Post Commander.

"Provided, further, that the premises shall be returned in as good condition as, or better, than they are now, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Government has no control excepted; and that any buildings belonging to the 36th Division, Texas National Guard, or to any of its components, including commissioned or enlisted personnel, which may be damaged or destroyed, except as provided above, by fire or otherwise, shall be either repaired or replaced, or the 36th Di-

vision, Texas National Guard, reasonably and adequately compensated therefor; but these conditions are subject to appropriations by Congress, available or to become available.

"Provided further, however, that any lease executed under authority of this Act shall contain a provision substantially as follows:

"It is agreed and understood by the parties hereto that if the Government shall exercise its option to renew this lease on or before June 30, 1941, then the Government agrees to pay, from appropriations, available or to become available, such reasonable rental as may be mutually agreed upon by the Contracting Officer and the 36th Division for the future use of the four Post Exchange buildings, the property of the Post Exchange Council, 36th Division, Texas National Guard, two (2) regimental recreation buildings, one the property of the personnel of the 142nd infantry, Texas National Guard, and the other the property of the personnel of the 143rd Infantry, Texas National Guard.

"Notwithstanding any provision in the foregoing paragraph, no rent shall accrue under this provision for any period during which the 36th Division, Texas National Guard, is in Federal Service.

"Sec. 2. That the Governor of the State of Texas is further authorized and empowered to execute any and all necessary instruments for the lease and demise of said lands to the United States, and thereafter to make such changes, alterations and/or additions in and to the terms and conditions of such lease as may be agreed upon between him and the duly authorized representatives of the United States, provided, that such changes, alterations, or additions shall not extend, with renewals, the period of said lease beyond the term of twenty-five (25) years; and provided further that such changes, alterations or additions shall in all respects comply with the terms and conditions specified in Section 1 of this Act."

Approved and effective March 11, 1941.

Lease of Camp Wolters to United States: Acts 1941, 47th Leg., p. 72, ch. 58, reads as follows:

"Section 1. That the Governor of the State of Texas be, and he is hereby, authorized and empowered to lease and demise to the United States for a period of one (1) year or any portion thereof, renewable at the option of the United States from year to year, upon the same terms and conditions specified in the original lease, for additional periods not to exceed the total of twenty-five (25) years, for a nominal consideration, and on such other terms and conditions as may be agreed upon by him and the duly authorized representative of the United States, those lands or any parcel of the same now owned by the State of Texas, lying and being at or near Mineral Wells, Palo Pinto County, Texas, known as Camp Wolters, consisting of four (4) tracts of land aggregating 206½

acres, more or less, together with such buildings, systems, fixtures, and appurtenances thereon, as he may deem advisable.

"Sec. 2. That the Governor of the State of Texas is further authorized and empowered to execute any and all necessary instruments for the lease and demise of said lands to the United States, and thereafter to make such changes, alterations and/or additions in and to the terms and conditions of such lease as may be agreed upon between him and the duly authorized representatives of the United States, provided that such changes, alterations, or additions shall not extend, with renewals, the period of said lease beyond the term of twenty-five (25) years."

Approved and effective March 11, 1941.

Art. 5248e. Cities or counties, acting separately or jointly, may acquire lands for use of United States Government; contracts; validation of agreements

Section 1. Any city or county in the State, separately or jointly, is authorized to acquire lands for the use of the United States Government, either by a lease for a term of years or in fee simple title; said lands shall lie within the limits of the county acquiring same, or if acquired by a city, within the limits of the county in which said city is located.

Sec. 2. For the purpose of acquiring lease-hold interest or fee simple title to lands for the use of the United States Government, authorized above, the said city or county is authorized to appropriate any available funds and also to issue time warrants in payment thereof; provided, however, that in the event time warrants are proposed to be issued, the provisions of Article 2368-a of the Revised Civil Statutes of the State of Texas shall be followed in the issuance of said time warrants.

Sec. 3. For the purpose of acquiring lease-hold or fee simple estate in lands for the use of the United States Government, any city or county may condemn lands for such purpose, and said condemnation may be for any period of years or in fee simple title, and in the acquisition of said interest desired, said city or county may, immediately after filing condemnation suit, as now provided by law, take possession of said lands by depositing with the County Clerk the amount of money estimated by the Commissioners' Court or City Council of the city or county involved, to be the just compensation for the interest in the land taken. Said petition for condemnation shall set forth the amount of said money so found by the Commissioners' Court or City Council, to be just, and such finding shall be made by said body prior to the filing of the petition of condemnation. In the event the Special Commissioners appointed under the condemnation statutes, after a hearing as provided by law, find the just compensation to be greater than the amount fixed by the Commissioners' Court or City Council, then an additional amount shall be deposited with the County Clerk by the taking authority, so as to equal the amount found by the Commissioners. Condemnation may be in the name of the city or county and said city or county may at any time after the taking, which shall be from the date the deposit of the money estimated by the Commissioners' Court or City Council, or the date of deposit of the amount fixed by the Special Commissioners in the event the taking is not desired until after the Commissioners have acted thereon, transfer the interest acquired by the taking to the United States Government.

Sec. 4. Any city or county may contract with the United States Government or its agencies obligating itself to acquire a lease-hold interest, or fee simple title in land as above authorized and any agreement heretofore executed by any city or county with the United States Government binding itself to acquire interest in land for the Government is hereby validated.

Sec. 5. If any section, sub-section, sentence, clause or phrase of this Act shall be held unconstitutional for any reason, such fact shall not affect the remaining portions hereof. Acts 1941, 47th Leg., p. 239, ch. 168.

Approved April 22, 1941.

Effective April 22, 1941.

Section 6 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing any city or county of the State, acting separately or jointly, to acquire lands for the use of the United States Government, either by lease for a term of years or in fee simple title; authorizing the appropriation of any available funds of any such city or county for the payment of such lands; authorizing the issuance of time warrants in payment thereof; authorizing the condemnation of lands for such purpose, either for a period of years or in fee simple; authorizing the taking of possession of said lands, immediately after filing condemnation suit, upon depositing with the County Clerk

the amount of money estimated by the Commissioners' Court or City Council of the city or county involved to be just compensation for the interest taken; providing for the deposit of any additional amount found by the Special Commissioners in condemnation where the compensation found to be just is greater than the amount fixed by the Commissioners' Court; authorizing any such city or county to contract with the United States Government or its agencies, obligating itself to acquire lease-hold interest or fee simple title in land, and validating any such agreement heretofore executed by any such city or county with the United States Government; providing that unconstitutionality of any part of the law shall not invalidate the remainder; and declaring an emergency. Acts 1941, 47th Leg., p. 239, ch. 168.

TITLE 86—LANDS—PUBLIC
CHAPTER ONE—ADMINISTRATION

1. THE COMMISSIONER

Art.

5254a. Revision and compilation of abstracts of patented, titled and surveyed land [New].

1. THE COMMISSIONER

Art. 5254a. Revision and compilation of abstracts of patented, titled and surveyed land

Section 1. The Commissioner of the General Land Office shall prepare a revision and compilation of the various volumes of the abstracts of patented, titled, and surveyed land, which have heretofore been made by this Office. The various counties of the State shall be apportioned into appropriate districts not to exceed eight (8) in number for the purpose of revising and compiling said abstracts, and all of the abstracts of each particular district shall be compiled into a separate volume. The Commissioner of the General Land Office shall retain as many complete sets of said abstract volumes as are necessary for the use of his Office, and deliver the balance of said printed volumes to the Comptroller of Public Accounts, who shall distribute to those offices of the State requiring its use, one complete set of said abstract volumes, and shall deliver to the Tax Assessor-Collector of each county a copy of the volume containing the abstracts of his county. The surplus volumes may be sold by the Comptroller to persons applying for them at a price of not less than Twelve Dollars and Fifty Cents (\$12.50) per volume. The Comptroller shall pay all moneys so received into the General Revenue Fund of the State.

Sec. 2. That the sum of Fifteen Thousand Dollars (\$15,000), or as much thereof as is necessary, be and the same is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, to be used by the Commissioner of the General Land Office to defray the expense of printing and binding said abstract volumes. The Commissioner may cause to be printed not more than two thousand (2,000) volumes. All such printing and binding is to be done within the State of Texas.

Sec. 3. Nothing contained herein shall affect the laws pertaining to the preparation, printing, and distribution of supplementary abstract volumes. Acts 1941, 47th Leg., p. 465, ch. 291.

Approved May 16, 1941.

Effective May 16, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Supplementary abstract volumes, see article 5254.

Title of Act:

An Act providing for the revision and compilation of the abstracts of patented, titled, and surveyed land by the Commis-

sioner of the General Land Office; making an appropriation for the printing and binding of same; providing for the distribution and sale of same by the Comptroller of Public Accounts; providing such binding and printing is to be done within this State; providing the Act shall not affect laws pertaining to preparation, printing, and distribution of supplementary abstract volumes; and declaring an emergency. Acts 1941, 47th Leg., p. 465, ch. 291.

CHAPTER TWO—SURVEYORS AND SURVEYS

1. LICENSED LAND SURVEYORS

Article 5268. Board of Examiners

The Board of Examiners of State Land Surveyors shall be composed of the Commissioner of the General Land office, who shall be Chairman, and two reputable Licensed State Land Surveyors of not less than fifteen year practical and active experience in the field as land surveyor, who shall be appointed by the Governor upon the recommendation of the Commissioner, and with the advice and consent of two-thirds (2/3) of the Senate. At the time of such appointment the Governor shall designate one (1) member to serve a term of two (2) years and another a term of four (4) years from and after the date of appointment and thereafter one (1) member shall be appointed biennially for a term of four (4) years. Nothing in this Act shall affect or limit the terms of office of the present members of such board and they shall continue to hold such office until the expiration of the terms for which they have been appointed, and then the Governor shall make the two (2) and four (4) year appointments as provided herein. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Approved June 14, 1941.
Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 5269. Organization of Board; quorum; meetings

Within thirty (30) days after the effective date of this Act, the Board shall meet in the General Land Office and elect one (1) of their number Secretary-Treasurer, who shall keep an accurate record of the proceedings of the Board, and a correct list of all persons licensed by the Board, and in addition shall keep an account of all receipts and expenditures of the Board. Such records shall be deposited in the General Land Office and become records of that office. Should the Board consider it advisable it may authorize the Commissioner to designate some employee of his office as assistant Secretary-Treasurer, who shall attend to all clerical work of the Board. The presence of two (2) members of the Board shall constitute a quorum for the transaction of any business, and the concurrence of two (2) members shall be necessary for the adoption or rejection of any question upon which they shall be called to pass.

The Commissioner, as Chairman of the Board, may call a meeting thereof at any time the accumulated business for the attention of the Board may warrant. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5270. Duties of Board

All applications for licenses shall be made to the Board in writing. The Board shall prepare written questions upon the theory of surveying, practical surveying, theory and use of surveyor's instruments, calculation of areas, closing field notes, the law of land boundaries, the history and functions of the General Land Office, and such other matters pertaining to surveying as the Board may deem important. Upon receipt of a written application for license the Board shall prepare written questions as herein provided and shall forward the same, together with the application, to the County School Superintendent of the county where

the applicant resides, with suitable words on the enclosure indicating the contents, and the name and address of the applicant. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5271. Examination

Upon receipt of the questions by the County School Superintendent he shall hold the same unopened and shall notify the applicant of the time and place of the examination. The applicant shall appear at the time and place set, and the envelope containing the questions shall be opened in his presence only, and the examination shall be conducted in the same manner and under the same restrictions as required for teachers' certificates. Before taking the examination each applicant shall deposit with the County Superintendent the sum of Ten (\$10.00) Dollars, who shall retain Two (\$2.00) Dollars of said sum, said Two (\$2.00) Dollars shall be disposed of as are the fees paid by applicants for teachers' certificates. When the examination has been completed the examining authority shall return both questions and answers to the Chairman of the Board of Examiners of Land Surveyors, together with Eight (\$8.00) Dollars of the Ten (\$10.00) Dollars deposited by applicant.

When the questions prepared by the Board and the answers thereto shall have been returned to the Chairman of the Board as herein provided, he shall either convene the Board for the purpose of passing upon such answers and the issuance or refusal of the license, or he may transmit the questions and answers to the other members of the Board for their consideration and action, and shall issue a license to the applicant if he shall have passed a successful examination; provided, however, such license shall not issue until applicant has taken the oath of office and filed the bond as hereinafter required. Such questions and answers shall be deposited in the General Land Office and there safely kept for at least two years.

If a license be refused an applicant he may take any subsequent examination under the same conditions as in the first instance, and by the payment of the same fee, provided that such examination shall not be given before the expiration of at least six months after the preceding examination. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5272. Seal of licensee

Each licensed state land surveyor shall procure a seal of office. Around the margin shall be the words "Licensed State Land Surveyor," which shall be his official title, and between the points of the star in said seal shall be the word "Texas." He shall attest with said seal all his official acts authorized under the provisions of the law. No act, paper, or map of a licensed state land surveyor shall be filed in the county records or the General Land Office unless certified to under the seal of such surveyor. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5273. License; term of; grounds of revocation; resignation

A license issued to an applicant under these provisions shall be valid for life unless the licensee resigns as herein provided or the license is revoked by the Board for any of the following causes: That the holder has been found by a court of competent jurisdiction guilty of a felony or adjudged to have committed a theft, or fraud, or to be insane, or shall be found by the Board to be incompetent or to have unlawfully given information concerning any undisclosed public land or

to have been directly or indirectly interested in the purchase or in the acquisition of title to any public land or to have been found by the Board guilty of any act or default discreditable to the surveying profession.

A licensed state land surveyor may resign as such surveyor at any time he may so desire by filing his resignation in writing with the Commissioner of the General Land Office. On receipt of such resignation the Commissioner shall cause to be made an entry on his records showing such act on the part of the licensee, and thereupon the duties of such licensee as a licensed state land surveyor shall cease, but such resignation shall not operate to relieve the principal and sureties of said surveyor's official bond of any liability that may have accrued prior to the effectiveness of such resignation. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5274. Revocation of license

Before any license issued under these provisions shall be revoked, the holder thereof shall have been notified by registered mail notice from the Board addressed to him at his last known address, at least thirty (30) days before the day fixed for the hearing, stating the charges and the time and place for such hearing. The evidence adduced on such hearing shall be reduced to writing. If the Board finds the charges sustained by the evidence, the license of such surveyor shall be revoked. The surveyor whose license has been revoked may within sixty (60) days from the date the charges are sustained by the Board, appeal from such revocation to the District Court of Travis County. Such case may be carried to the appellate courts, as in other cases, by either the Board or such surveyor. Upon such appeal the court shall admit in evidence the written record of the Board together with such other evidence as may be offered on either side in accordance with the rules of evidence in such courts. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5275. Oath and bond

Before a surveyor's license issues, and before one who has successfully passed the examination as provided in this Act shall be authorized to perform the duties of a Licensed State Land Surveyor, he shall take the official oath and shall make a good and sufficient bond in the sum of One Thousand (\$1,000.00) Dollars, payable to the Governor, conditioned that he will faithfully, impartially and honestly perform all the duties of a Licensed State Land Surveyor to the best of his skill and ability in all matters wherein he may be employed. No surveyor's license shall be issued hereunder to any person residing outside the State of Texas.

Such bond may be executed by two (2) or more solvent personal sureties, or by some solvent surety company authorized to transact business in this State. Should the bond be signed by personal sureties each shall take and subscribe to an oath that he is worth over and above all debts and exemptions at least double the penalty of the Bond. Such personal bond shall also be approved by the Commissioners' Court of the County where the applicant resides. After the oath and bond have been executed as herein provided they shall be recorded in the office of the County Clerk of the county in which the applicant resides, and after being so recorded shall be filed in the General Land Office, accompanied with One (\$1.00) Dollar filing fee, and thereupon a license shall be issued to applicant and he shall be authorized to enter upon the discharge

of the duties of a licensed State land surveyor. If for any reason the liability on the bond herein provided for shall be terminated, said licensee shall not be authorized to perform the duties of a licensed State land surveyor until a new bond is made as in the first instance. No surety on such bond, however, shall be relieved of liability thereon without first giving the Governor and the Commissioner of the General Land Office thirty (30) days notice in writing. The termination of said bond as herein provided, or the revocation of such surveyor's license, shall not relieve the sureties thereon from any liability that may have theretofore accrued thereon. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5276. Authority of licensee

Land surveyors licensed under this Act are hereby authorized to perform the duties that may be performed by the county surveyors, and shall be subject to the direction of the Commissioner of the General Land Office in matters of land surveying in such cases as may come under the supervision of such authorities. The jurisdiction of such licensees shall be co-extensive with the limits of the State. They may hold the office of county surveyor, and if so elected shall qualify as provided by law for county surveyors, but such election for any particular county shall not limit the jurisdiction of said surveyor to such county, nor shall the election of a county surveyor for any particular county prevent any licensed State land surveyor from performing the duties of a surveyor in such county. All official field notes made by one licensed under this law shall be signed by such surveyor, followed by the designation: "Licensed State Land Surveyor." As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5277. Field notes to be recorded

The field notes and plats of every survey of public land made by any surveyor licensed under this Act shall be recorded in the county surveyor's records of the county in which the land may be situated. The field notes and plats of public land made by any licensed state land surveyor affecting the lines, boundaries, and areas of such land shall be forwarded to the General Land Office after the same have been recorded under the provisions of this Act. All field notes made by licensed state land surveyors in any county in this state shall have the same force and effect and be admissible in evidence the same as field notes made by a county surveyor. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5278. Undisclosed land

If a licensed State land surveyor shall discover any undisclosed tract of public land he shall not make known that fact to anyone except to such person as may have it enclosed, but he shall forward to the Commissioner of the General Land Office a report of the existence of such tract and the acreage therein, and its probable value. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5279. Compensation

A licensed State land surveyor shall receive as compensation for his services such sums as may be mutually agreed upon between the surveyor and the interested party, including other expenses incident to the survey, whether the same be a private person, a county, a court or the State. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

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

Art. 5280. Certified copies; field notes of surveys of public land; access to records; examination fees

This Act shall not be construed as authorizing a licensed State land surveyor to make a certificate of any fact shown by the books, documents, and records of any county surveyor's office, nor certify to the correctness of the copy of any document or record or entry shown by the records of a county surveyor; nor shall this Act be construed as authorizing any licensed State land surveyor to make any entries whatsoever on the books, records, and documents of a county surveyor's office, except as hereinafter provided. In the absence of a county surveyor or his authorized deputy from his office, a licensed State land surveyor may file field notes for record and record the same and the certificate of recordation shall show the absence of the county surveyor, but the recording fees as now provided by law shall be paid to the county surveyor, if any. In cases where a county has a county surveyor such surveyor alone shall be authorized to issue certificates of fact and certify the correctness of copies; and in cases where a county has no county surveyor the County Clerk being the legal custodian of the surveyor's records, is authorized to make all such certificates and certify such copies as a legally authorized county surveyor may make. The field notes of the surveys of public land made under contract by the public authorities in control of such lands, when approved by the Commissioner of the General Land Office, may be bound in volumes and filed over the certificates of the contracting surveyor in the county surveyor's office and become a record or archive thereof without fee.

Surveyors licensed under the provisions of this Act shall have access to the records of county surveyors, and no examination fees shall be charged in cases where an investigation of the records is being made with a view to making surveys of public lands under the laws regulating the sale or lease of the same or of identifying and establishing the boundaries thereof. All examinations shall be made under such regulations as may be provided by the county surveyor or the Commissioners' Court for the safe-keeping and preservation of the records. Examination fees for other purposes shall not exceed One (\$1.00) Dollar an hour, and fees for copies shall not exceed Thirty-five (35¢) Cents for one hundred words. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5281. Disposition of fees

The sums received by the Board or so much thereof as may be necessary may be used to defray the actual expense incurred by the members of said Board in the execution of this law, and other expense necessary for the proper administration hereof, and the remainder shall be deposited annually in the State Treasury to the credit of the General Revenue Fund. No appropriation shall ever be made to defray the expenses of said Board or to carry into effect the provisions of this law. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

Art. 5282. Examinations and licenses

No person shall be authorized to perform the duties of a licensed State land surveyor without first standing and passing the examination herein provided for, and obtaining a license as provided by this Act. As amended, Acts 1941, 47th Leg., p. 806, ch. 501, § 1.

CHAPTER THREE—SURFACE AND TIMBER RIGHTS**2. SALES****Art. 5312. [5409] Application to purchase**

One desiring to buy any portion of such surveyed land shall make separate written application to the Commissioner for each tract applied for as a whole, designating the same and stating the price offered, and make affidavit that he desires to purchase the land for himself and that no other person or corporation is interested in the purchase thereof either directly or indirectly, and pay one-fifth of the aggregate price offered for the land, and submit his obligation in a sum equal to the amount of the unpaid purchase price offered for the land, binding the purchaser to pay to the State at the General Land Office at Austin, Texas, on the first day of each November thereafter until the whole purchase price is paid, one-fortieth of the unpaid balance with interest on the unpaid purchase price at the rate of five (5) per cent per annum. Upon receipt and filing of the application, affidavit, obligation and the one-fifth of the price offered, the sale shall be held effective from that date. As amended Acts 1941, 47th Leg., p. 351, ch. 191, § 2.

Approved May 2, 1941.

Effective May 2, 1941.

Section 4 of amendatory Act of 1941

declared an emergency and provided that the Act should take effect from and after its passage.

Art. 5326. 5423 Forfeiture for nonpayment of interest; reinstatement; outstanding grazing leases

If any portion of the interest on any sale should not be paid when due, the land shall be subject to forfeiture by the Commissioner entering on the wrapper containing the papers "Land Forfeited," or words of similar import, with the date of such action and sign it officially, and thereupon the land and all payments shall be forfeited to the State, and the lands may be offered for sale on a subsequent sale date. In any case where lands may hereafter be forfeited to the State for non-payment of interest, the purchasers, or their vendees, heirs, or legal representatives, may have their claims reinstated on their written request, by paying into the Treasury the full amount of interest due on such claim up to the date of reinstatement, provided that no rights of third persons may have intervened. The right to reinstate shall be limited to the last purchaser from the State or his vendees or their heirs or legal representatives. Such right must be exercised within five (5) years from the date of the forfeiture, and the right to reinstate any claim heretofore forfeited by the Commissioner must be exercised within five (5) years from the effective date of this Act, but not thereafter. In case there is an outstanding valid grazing lease which would prevent reinstatement within the time prescribed by this Act then such claim may be reinstated within sixty (60) days after the expiration of such grazing lease, provided application for reinstatement shall have been filed in the General Land Office within the five-year period above prescribed accompanied with payment of all interest due thereon. In all such cases, the original obligations and penalties shall thereby become as binding as if no forfeiture had ever occurred. If any purchaser shall die, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death before the Commissioner shall forfeit the land belonging to such deceased purchaser, and should such forfeiture be made by the Commissioner within said time, upon proper proof

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

of such death being made such forfeiture shall be set aside. Nothing in this Article shall inhibit the State from instituting such legal proceedings as may be necessary to enforce such forfeiture, or to recover the full amount of the interest and such penalties as may be due the State at the time such forfeiture occurred, or to protect any other right to such land. As amended Acts 1941, 47th Leg., p. 351, ch. 191, § 3.

Approved May 2, 1941.

Effective May 2, 1941.

Section 4 of amendatory Act of 1941

declared an emergency and provided that the Act should take effect from and after its passage.

[Art. 5330a. Regulating sale and patenting of lands formerly part of Oklahoma; Special Land Board; powers and duties]

Sec. 6. The examination fees provided for in Section 3 of this Act shall be deposited with the State Treasurer in a special fund to the credit of the Land Board created in Section 2 hereof. All such moneys so paid into the State Treasury are hereby specifically appropriated to said Land Board for the purpose of defraying the authorized and necessary expenses incident to the enforcement of this Act incurred by said Board in determining the identity of persons entitled to the benefits of this Act. The Comptroller shall, from time to time, upon requisition of the Commissioner of the General Land Office, draw warrants upon the State Treasurer for the amounts specified in such requisition, not exceeding, however, the amount of such fund on deposit at the time of the making of any requisition therefor. Any sum remaining in such fund after all expenses have been paid shall be transferred to the Permanent School Fund. The amount of money accruing to the State of Texas as consideration for the sale of the land as provided for in Section 3 hereof shall be placed to the credit of the Permanent School Fund. As amended Acts 1941, 47th Leg., p. 242, ch. 170, § 1.

Approved April 25, 1941.

Effective April 25, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER FOUR—OIL AND GAS

2. GULF LANDS

Art.

5366a. Extension of oil and gas leases on areas covered by coastal waters or within Gulf [New].

1. UNIVERSITY AND OTHER LANDS

Art. 5338. [Repealed by Acts 1931, 42nd Leg., p. 452, ch. 271, § 13]

See Art. 5421c.

2. GULF LANDS

Art. 5353. Lands subject to lease

Extension of leases, see article 5366a.
Gulf lands, lease under later act, see art. 5421c.

Art. 5356. Tie bids

Grant of tidewater lands and waters of Gulf to cities of 60,000 or more for park purposes, see art. 6081g.

Leases or easements to United States for National Defense, see art. 5421c—4.

Art. 5366a. Extension of oil and gas leases on areas covered by coastal waters or within Gulf

Section 1. In each case in which an oil and gas mineral lease has heretofore been granted or may hereafter be granted by the State of Texas on an area covered by the coastal waters of the State or within the Gulf of Mexico and in which the War Department of the United States refuses to grant a permit to the lessee or owner of such lease to drill a well thereon for oil, gas or other minerals (the area included in such lease being within the navigable waters of the United States) and in the event the primary term of such lease should expire during the period of time in which the War Department of the United States may continue to refuse to issue such permit, then and in such event the primary term of such lease is hereby extended for successive periods of one (1) year from and after the end of the original primary term of such lease while and so long as the War Department may continue such refusal to issue to the lessee or to the owner of such lease a permit to drill for oil, gas or other minerals, on the area covered thereby; provided, that in order to make such extensions effectual the lessee or the owner of such lease shall, during each of the annual periods during which the primary term of the lease is so extended, apply to and seek to obtain from the War Department a permit to drill a well for oil, gas or other minerals on the area covered by such lease and be unsuccessful in its attempts to obtain a permit, or, if successful in obtaining a permit, commence operations for drilling a well upon the leased premises within sixty (60) days after obtaining such permit; and provided further that the lessee or the owner of such lease continues to pay the annual renewal rentals at the rate provided for in such lease for the period of time involved in such extensions. Should such lease be so extended and should the War Department at any time while such lease is still in force and effect issue a permit to the lessee or to the owner of such lease to drill a well thereon for oil, gas or other minerals, such lease shall continue in force and effect if the lessee commences drilling operations upon the leased premises within sixty (60) days after obtaining such permit, and so long as the lessee or the owner of such lease shall continue to conduct drilling or mining operations thereon, or if oil, gas or other mineral be discovered thereon by the lessee or the owner of such lease, so long as oil, gas or other mineral is produced from such leased premises. Should the production of oil, gas or other mineral on said leased premises after once secured, cease from any cause, such lease shall not terminate if the lessee or owner of such lease commences additional drilling, reworking or mining operations within thirty (30) days thereafter or if it be within the original primary term of such lease, commences or resumes the payment or tender of rental on or before the rental paying date, if any, next ensuing; but if there be no rental paying date next ensuing, the lease shall in no event terminate prior to the expiration of the primary term.

Sec. 2. The Commissioner of the General Land Office is hereby authorized to issue to the lessee or owner of said lease such instrument in writing in the nature of an extension of said lease as may be necessary or proper to carry into effect the foregoing provisions of this Act. Acts 1941, 47th Leg., p. 456, ch. 287.

Approved May 16, 1941.

Effective May 16, 1941.

Section 3 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act extending oil and gas mineral leases granted by the State on areas covered by the coastal waters of the State or within the Gulf of Mexico in cases in which the War Department refuses to grant permits to the lessee or owner of

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

the lease to drill thereon, providing for annual applications by the lessee to the War Department for permits, providing for the payment of rentals during the extended term of the lease, providing that if a permit is granted during the extended term of the lease the lease will continue in force thereafter if the lessee commences operations within sixty (60) days after obtaining a permit and so long as the lessee shall continue drilling operations or if oil is discovered so long as oil, gas or other mineral is produced, pro-

viding that the lease may be continued by operations if commenced within thirty (30) days after the cessation of production during the primary term, authorizing the Commissioner of the General Land Office to issue to the lessee such instrument in writing in the nature of an extension of the lease as may be necessary or proper to carry into effect the provisions of this Act, repealing all laws or parts of laws in conflict herewith, and declaring an emergency. Acts 1941, 47th Leg., p. 456, ch. 287.

CHAPTER SEVEN—GENERAL PROVISIONS

Art.

5415a. Gulfward boundary fixed; sovereignty over waters, beds and shores of gulf; Permanent Public Free School Fund, lands granted to [New].

5421c—4. Easements or surface leases of Gulf lands to United States for national defense; authority of School Land Board [New].

Art.

5421c—5. Leasing of islands, salt water lakes, bays, inlets, marshes, and certain other lands; determination of price [New].

5421f—1. Extension of time for payment of installments of principal of school land purchase contracts [New].

5421i. Suspension of running of primary term of oil and gas lease pending litigation [New].

Art. 5415a. Gulfward boundary fixed; sovereignty over waters, beds and shores of gulf; Permanent Public Free School Fund, lands granted to

Section 1. That the gulfward boundary of the State of Texas is hereby fixed and declared to be a line located in the Gulf of Mexico parallel to the three (3) mile limit, as determined according to said ancient principles of international law, which gulfward boundary is located twenty-four (24) marine miles further out in the Gulf of Mexico than the said three (3) mile limit.

Sec. 2. That, subject to the right of the government of the United States to regulate foreign and interstate commerce under Section 8 of Article 1 of the Constitution of the United States, and to the power of the government of the United States over cases of admiralty and maritime jurisdiction under Section 2 of Article 3 of the Constitution of the United States, the State of Texas has full sovereignty over all the waters of the Gulf of Mexico and of the arms of the Gulf of Mexico within the boundaries of Texas, as herein fixed, and over the beds and shores of the Gulf of Mexico and all arms of the said Gulf within the boundaries of Texas, as herein fixed.

Sec. 3. That the State of Texas owns, in full and complete ownership, the waters of the Gulf of Mexico and of the arms of the said Gulf, and the beds and shores of the Gulf of Mexico, and the arms of the Gulf of Mexico, including all lands that are covered by the waters of the said Gulf and its arms, either at low tide or high tide, within the boundaries of Texas, as herein fixed; and that all of said lands are set apart and granted to the Permanent Public Free School Fund of the State, and shall be held for the benefit of the Public Free School Fund of this State according to the provisions of law governing the same.

Sec. 4. That this Act shall never be construed as containing a relinquishment by the State of Texas of any dominion sovereignty, terri-

tory, property or rights that the State of Texas already had before the passage of this Act. Acts 1941, 47th Leg., p. 454, ch. 286.

Approved May 16, 1941.

Effective May 16, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act declaring the sovereignty of Texas along its seacoast; fixing its present seacoast boundary and ownership; and declaring an emergency. Acts 1941, 47th Leg., p. 454, ch. 286.

Art. 5421c. Regulating sale and lease of school lands, public lands and river bed; Board of Mineral Development created

Prospecting land

Sec. 12. Any person or corporation desiring to prospect a tract of land or a part of a tract belonging to the State for gold, silver, platinum, cinnabar, and other metallic ores and precious stones may file an application with the Commissioner of the Land Office designating the area to be prospected, and such applicant shall have a period of one year from date of filing such application within which to prospect the area designated. Within the period of said year he may file an application to lease the area designated for the purpose of mining gold, silver, platinum, cinnabar, and other metallic ores and precious stones and remit Fifty (50) Cents an acre as first annual payment of rental on the lease and continue to make such payments from year to year for a period of five (5) years, unless some of the minerals mentioned herein shall be discovered sooner in paying quantities. On discovery of any of such minerals, the payments of such rental shall cease. If at the expiration of any such lease, whether heretofore or hereafter issued, any of the above-mentioned minerals are being produced in commercial quantities, it shall be the duty of the Commissioner of the General Land Office on the application of the then owner or owners of said lease, or his or their duly authorized representative, presented at any time within sixty (60) days from the date of such expiration, to renew and extend the same by appropriate instrument in writing for so long a period thereafter as any of such mineral shall continue to be produced in commercial quantities. On the twentieth day of each month the owner of the mine or mines shall pay the royalty due the State, which shall be one-sixteenth (1/16) of the value of the minerals sold or moved off the premises. Such payments shall be remitted to the Commissioner of the General Land Office and credited to the account of the permanent school fund. The leases shall be drawn and the mines operated in accordance with regulations prescribed by the Governor, Attorney General, and Commissioner of the General Land Office. As amended Acts 1941, 47th Leg., p. 596, ch. 365, § 1.

Amendment of 1941 to section 12 approved and effective May 22, 1941.

Section 2 of amendatory Act of 1941

declared an emergency and provided that the Act should take effect from and after its passage.

Art. 5421c—3. Control and disposition of lands set apart for permanent free school fund and asylum funds and mineral estate within tide-water limits; dedication of mineral estate to permanent school fund; School Land Board, creation and duties; Board of Mineral Development abolished

Leases or easements of Gulf lands to United States for national defense by School Land Board, see article 5421c—4.

Art. 5421c—4. Easements or surface leases of Gulf lands to United States for national defense; authority of School Land Board

Section 1. The School Land Board, created by House Bill No. 9 of the Forty-sixth Legislature (being Title: Public Lands, Chapter 3, of the General Laws of the Forty-sixth Legislature, 1939,¹) is hereby authorized to grant and issue easements or surface leases to the United States of America in accordance with the conditions hereinafter set out, on any island, salt water lake, bay, inlet, or marsh within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of the State of Texas, to be used exclusively for any purpose essential to the National Defense.

Sec. 2. When the proper authority or agency of the United States of America shall make application to the School Land Board describing the area which is deemed necessary for use in the National Defense said Board shall issue an easement or surface lease to the United States of America granting and conveying to it the free and uninterrupted use of the area described. Provided that before such lease or leases be granted in any county that the Board shall notify the County Judge of said county and shall fix a date for hearing at which time all interested persons may be heard in protest or otherwise. Such easement or surface lease shall be effective only so long as the area is used for the purpose of National Defense, and it shall cease and terminate and the State of Texas shall be revested with full title and possession of the area when same is no longer used for such purpose.

Sec. 3. The easements or surface leases granted hereunder shall be upon the express condition that the State of Texas shall retain all of the oil, gas, and other mineral rights in and under the area affected. The consideration to be paid for the use of said areas shall be agreed upon by the School Land Board and the United States of America and it shall be payable to the State of Texas on an annual basis.

Sec. 4. All leases for grazing purposes heretofore issued by the Commissioner of the General Land Office which are covered or partially covered by any easement or surface lease granted hereunder are hereby made subordinate to such easement or surface lease. If the lessee under any existing oil and gas lease heretofore granted by the State on any area affected by an easement or surface lease granted hereunder, shall file or cause to be filed in the General Land Office an agreement, subordinating to the easement or surface lease granted hereunder all rights held by such lessee under such oil and gas lease, then and in that event the running of both the primary and principal terms of such lease shall be suspended during the existence of such easement or lease; provided, however, that lessee continues the annual rental payments stipulated in the lease during such suspended period. Such oil and gas lease shall remain in status quo, and all obligations, duties, rights and privileges existing under such lease shall be inoperative and of no force and effect until the expiration of said easement or surface lease, at which time said oil and gas lease shall again become operative and all of the obligations, duties, rights and privileges, including the payment of rentals under same, shall again attach and be in force as they were on the date of the suspension and continue for the unexpired term of such lease. The School Land Board shall give notice immediately to such lessees that their leases are again in force when said easement or surface lease has terminated; provided, however, that the annual rental payments have been met.

Sec. 5. All areas on which there now exists oil, gas, or other mineral production are specifically excluded from the terms of this Act. Acts 1941, 47th Leg., p. 20, ch. 10.

¹ Article 5421c.

Approved and effective Feb. 10, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the granting and issuance of easements or surface leases to the United States of America by the School Land Board on any island, salt water lake, bay, inlet, or marsh within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of the State of Texas, for any purpose essential for the National Defense; providing for hearings by interested parties; providing for termination of lease when area no longer used for purpose herein granted; retaining for the State of Texas all oil and gas and other mineral rights in and under such areas; providing that the consideration to be paid

the State therefor shall be agreed upon by the School Land Board and the United States of America; subordinating all existing grass leases to such easements or surface leases; providing for the suspension of the primary and principal terms of existing oil and gas leases affected hereby for the duration of such easements or surface leases upon the filing of the subordination agreements by holders of such oil and gas leases, provided that annual rental payments stipulated in this lease during suspension period are continued; providing for notice to such oil and gas lessees of the termination of such easements or surface leases, provided annual rental payments have been met; excluding from the terms hereof all areas where oil, gas, or other mineral production exists; and declaring an emergency. Acts 1941, 47th Leg., p. 20, ch. 10.

Art. 5421c—5. Leasing of islands, salt water lakes, bays, inlets, marshes, and certain other lands; determination of price

Section 1. All islands, salt water lakes, bays, inlets, marshes, and reefs owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas; all beds of rivers and channels belonging to the State; and all unsold public free school land, both surveyed and unsurveyed, shall be subject to lease by the Commissioner of the General Land Office to any person, firm, or corporation for the production of minerals, except gold, silver, platinum, cinnabar, and other metals, that may be therein or thereunder, in accordance with the provisions of Chapter 271, Acts of the 42nd Legislature as amended,¹ Subdivision 2, Chapter 4, Title 86, Revised Civil Statutes of Texas of 1925,² and Title: Public Lands, Chapter 3, Acts of the 46th Legislature, (1939)¹ relating to leasing public areas, insofar as same is not in conflict herewith.

Sec. 2. The price at which any of said land may be leased shall be determined by the School Land Board as created by Title: Public Lands, Chapter 3, Acts of the 46th Legislature (1939). All such leases shall be for a primary term of five (5) years, with such annual delay rental as may be fixed by said Board. Acts 1941, 47th Leg., p. 803, ch. 498.

¹ Article 5421c.

² Articles 5353-5366.

Approved and effective June 14, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the leasing of all islands, salt water lakes, bays, inlets, marshes, and reefs owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the juris-

diction of Texas; all beds of rivers and channels belonging to the State; and all unsold public free school land, both surveyed and unsurveyed, by the Commissioner of the General Land Office; providing that the price at which such land may be leased shall be determined by the School Land Board; defining the terms of lease; and declaring an emergency. Acts 1941, 47th Leg., p. 803, ch. 498.

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

Art. 5421f—1. Extension of time for payment of installments of principal of school land purchase contracts

The time for the payment of all notes or obligations executed by purchasers of school land for the unpaid balance of principal due the State thereon which are due or will become due prior to November 1, 1951, is hereby extended to November 1, 1951, subject to all the pains and penalties provided in the Acts under which the purchases were made, provided that the extension of time herein granted shall apply only to installments of principal, and shall not apply to any installment of interest; and provided further that the unpaid balances of principal upon which an extension of time for payment is hereby granted shall bear interest during said period of extension at the rate provided for in the contract of purchase hereby extended, and past due installments of interest shall bear interest at the rate provided for in Section 7, Chapter 271, General Laws, Regular Session, Forty-second Legislature.¹ Acts 1941, 47th Leg., p. 351, ch. 191, § 1.

¹ Article 5421c.

Approved May 2, 1941.

Effective May 2, 1941.

Section 4 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to extend the time for the payment of all notes or obligations executed

by purchasers of school land for the unpaid balance of principal due the State thereon until November 1, 1951; amending Article 5312, Revised Civil Statutes, 1925; amending Article 5326, Revised Civil Statutes, 1925; and declaring an emergency. Acts 1941, 47th Leg., p. 351, ch. 191.

Art. 5421i. Suspension of running of primary term of oil and gas lease pending litigation

The running of the primary term of any oil, gas, or mineral lease heretofore or hereafter issued by the Commissioner of the General Land Office, which lease has been, is, or which may hereafter become involved in litigation relating to the validity of such lease or to the authority of the Commissioner of the General Land Office to lease the land covered thereby, shall be suspended, and all obligations imposed by such leases shall be set at rest during the period of such litigation. After the rendition of final judgment in any such litigation the running of the primary term of such leases shall commence again and continue for the remainder of the period specified in such leases and all obligations and duties imposed thereby shall again be operative; provided such litigation has been instituted at least six (6) months prior to the expiration of the primary term of any such leases. Acts 1941, 47th Leg., p. 1405, ch. 637, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act suspending the running of the primary term of any oil, gas, or mineral lease heretofore or hereafter issued by the Commissioner of the General Land Office, which lease has been, is, or which may hereafter become involved in litigation re-

lating to the validity of such lease or to the authority of the Commissioner of the General Land Office to lease the land covered thereby and setting at rest all obligations imposed by such leases during the period of such litigation; providing for the commencement of the running of the primary term of such leases for the remainder of the period specified therein after the rendition of final judgment in any such litigation; and declaring an emergency. Acts 1941, 47th Leg., p. 1405, ch. 637.

CHAPTER 6—CHATTEL MORTGAGES

Art. 5490. Chattel mortgages

Repeal as to Liens on Motor Vehicles

Article 5490 was repealed insofar as it affects the filing and recording of liens on

motor vehicles by Acts 1941, 47th Leg., p. 343, ch. 187, § 7.

TITLE 91—LIMITATIONS

3. GENERAL PROVISIONS

Art. 5540. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 94, Vernon's Texas Rules of Civil Procedure.

TITLE 92—LUNACY—JUDICIAL PROCEEDINGS IN CASES OF

Art. 5561a. Apprehension, arrest, and trial of persons not charged with criminal offense; information; warrant; notice of hearing

Warrant, form of; duties of officer

Sec. 2. The warrant provided for herein shall run in the name of "The State of Texas," and shall be directed to the sheriff or any constable of the county, and the officer receiving same shall forthwith take into custody the person named therein, and at the designated time and place shall have him and the return of said warrant before the County Judge for examination and trial, provided, however, that the sheriff, or any constable, upon the execution of the warrant provided for herein, may, with the consent of the Superintendent of any State Hospital, place said person so taken into custody in a place especially provided therefor at such State Hospital by the Superintendent of said State Hospital, to be remanded into the custody of the sheriff or any constable to be taken before the County Judge for examination and trial. As amended Acts 1941, 47th Leg., p. 635, ch. 383, § 1.

Restoration hearing; procedure; appeal

Sec. 4. Whenever one or more adult citizens of this State shall file an affidavit with the County Judge of the county where any one of the affiants resides, alleging under oath that there is located within said county, or confined within said county, a person who has theretofore been declared to be of unsound mind, or an habitual drunkard, and that in the opinion of affiants such person has been restored to his right mind, or to sober habits, and that there is no criminal charge pending against such person, the County Judge shall forthwith, either in termtime or in vacation, set a day for a hearing to determine the sanity, or sobriety, of such person. The County Judge shall cause notice of the date set for the hearing to be issued by the County Clerk, to the guardian of such person, if any, and to those having custody of such person, if any there be, and in the event such person be a beneficiary of the Veterans Administration, or his estate consists in whole or in part of money or

other assets derived from compensation, pension or insurance paid by the United States, like notice shall be served on the chief attorney of the Veterans Administration in this State by delivering a copy of said notice to his office, of the filing of such affidavit, and that a hearing is to be had thereon, giving the time and place thereof. The County Judge shall direct the Sheriff of the county where such person is located or confined to bring such person into open court for said hearing, if such action be necessary to procure his presence at the trial.

(a) A jury may be demanded by any person interested in the ward or his estate to pass on the question of whether or not such person has been restored to his right mind, or to sober habits, but if a jury is not demanded, the County Judge may pass upon such question, or he may cause a jury to be empanelled to hear such cause.

(b) If the trial of the cause, either before a jury or the County Judge, results in a finding that such person has been restored to his right mind, or to sober habits, a judgment shall be entered upon the minutes of the court reciting such facts, and adjudging such person to be of sound mind, or sober habits, and said person, if then under restraint, shall be discharged immediately.

(c) If such person be under guardianship at the institution of such proceedings and shall be adjudged to have been restored to his right mind, or to sober habits, under the provisions of this Act, and if such restoration takes place in a court other than that in which the guardianship is pending, then said former ward shall file a certified copy of the judgment of restoration to sanity, or sobriety, in the court where the guardianship is pending; and, immediately after the filing of such certified copy of such judgment in the court where the guardianship is pending, the former guardian shall file his final account, and deliver to his former ward the estate remaining in his hands. If the restoration be had in the court where the guardianship is pending, then immediately after such judgment of restoration is entered, the former guardian shall file his final account and deliver over to his former ward the estate remaining in his hands, in the time and manner provided for in probate proceedings.

(d) From a judgment rendered by the County Court upon any restoration hearing as provided an appeal may be taken to the District Court of the county wherein said cause originally was tried. The appeal from the judgment of the County Court to the District Court to be perfected in the manner and in the time provided by law for the appeal of probate proceedings from the County Court to the District Court; and provided further, that the trial in the District Court shall be de novo as in other probate proceedings and that the judgment of the District Court shall be final.

(e) Any person who has heretofore been declared to be of unsound mind, or an habitual drunkard, and has been tried under the provisions of this Act and found to be of unsound mind, or an habitual drunkard, shall not again be tried for a period of six (6) months.

(f) This Act shall be cumulative of Articles 4282, 4283, and 4284 of the 1925 Revised Civil Statutes of the State of Texas. As amended Acts 1941, 47th Leg., p. 562, ch. 356, § 1.

Section 2 of the amendatory Act of 1941, p. 635, ch. 383, provided that if any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sen-

tence, paragraph, section, or part of this Act.

The amendatory Acts of 1941, p. 635, ch. 383, § 3 and p. 562, ch. 356, § 2 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 93—MARKETS AND WAREHOUSES
CHAPTER SEVEN—WEIGHTS AND MEASURES.

Art.

5708a. County sealers in certain counties;
deputies [New].

Art. 5708a. County sealers in certain counties; deputies

Section 1. The Commissioners Court in each county having a population of not less than sixty-nine thousand, four hundred (69,400) and not more than seventy thousand (70,000), according to the last or any succeeding United States Census, may in its discretion appoint a county sealer of weights and measures. He shall be paid a salary to be determined by said Court, said salary not to be less than Fifteen Hundred Dollars (\$1500) a year, and no fee shall be charged by him or by the county for the inspecting, testing, or sealing or the repairing or adjusting of any weights, measures, or weighing or measuring devices. Whenever the Court shall deem it necessary, one or more deputy sealers of weights and measures may be appointed to hold office under the same conditions as those specified for the sealer of weights and measures, and the salaries of such deputies shall be fixed as in the case of the sealer of weights and measures. All deputies appointed shall have the same powers and may perform the same duties as the county sealer, when acting under his instructions and at his direction. Provided that the appointments of all county sealers and deputy sealers being made under the provisions of this Chapter shall be subject to the approval of the Commissioner of Agriculture.

Section 2. All county sealers appointed under the terms of this Act shall have the same power, authority, duties, and responsibilities as are conferred upon all State and local sealers, in the performance of their official duties by the laws of this State. The jurisdiction of all county sealers and deputy sealers appointed by the Commissioners Court of any county in this State shall be coextensive with the limits of said county.

Section 3. Nothing in this Act shall be construed to prevent two (2) or more counties, or a county and a city situated therein, from combining the whole or any part of their districts, as may be agreed upon by the Commissioners Courts of the counties, or such Court of the county and the Mayor and the Common Council of the city, with one set of standards and one sealer, upon the written consent of the Commissioner of Agriculture. A sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement. Added, Acts 1941, 47th Leg., p. 1319, ch. 592, § 1.

Filed without the Governor's signature,
July 3, 1941.

Effective 90 days after July 3, 1941, date
of adjournment.

Section 2 of the Act of 1941 declared an
emergency but such emergency clause was
inoperative under Const. art. 3, § 39.

TITLE 94—MILITIA

CHAPTER THREE—NATIONAL GUARD

GENERAL PROVISIONS

Art. 5890a. Leave of absence of State or municipal employes with pay

All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who shall be members of the National Guard of Texas and of the National Guard Reserve of Texas and of the Organized Reserves of the United States Army and of the Naval Reserves of the Navy of the United States shall be entitled to leave of absence from their respective duties, without loss of efficiency rating, on all days during which they shall be engaged in field or coast defense training, ordered or authorized under the provisions of law, and without loss of pay for the first twelve (12) days of such leave of absence; but such officers and employees shall not be entitled to pay from the State of Texas or any county or political subdivision thereof, during such leave of absence for a longer period than twelve (12) days during any one calendar year. Such leave of absence shall be in lieu of any and all other vacations with pay, and said employee shall not be entitled to any other vacation with pay during that fiscal year.

The provisions of Section 1 of this Act, limiting such leaves of absence with pay to twelve (12) days in any one calendar year, shall not apply to members of the Legislature, but members of the Legislature shall be entitled to pay on all days, without limitation as to the number thereof, when they may be absent from the sessions of the Legislature and engaged in such field or coast defense training. As amended Acts 1941, 47th Leg., p. 108, ch. 87, § 1.

Approved and effective March 27, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

CHAPTER FIVE—TEXAS DEFENSE GUARD

Art.

5891a. Organization authorized—authority and name [New].

Art. 5891a. Organization authorized—Authority and name

Section 1. Whenever any part of the National Guard of this State is in active Federal service, the Governor is hereby authorized to organize and maintain within this State during such period, under such regulations as the Secretary of War of the United States may prescribe for discipline in training, such military forces as the Governor may deem necessary to defend this State. Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the State as shall volunteer for service therein, supplemented, if necessary, by men of the reserve militia enrolled by draft or otherwise as provided by law. Such forces shall be additional to and distinct from the National Guard and shall be known as the Texas Defense Guard.

Organization. Rules and Regulations

Sec. 2. The Governor is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this Act governing the enlistment, organization, administration, uniforms, equipment, maintenance, training, and discipline of such forces; provided such rules and regulations, in so far as he deems practicable and desirable, shall conform to existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder.

Pay and Allowances

Sec. 3. Service in the Texas Defense Guard shall be without pay except when called to active State service by appropriate authorities; such pay and allowances to be computed as for similar grade and service in the National Guard on such duty, except that allowances will not include pay for length of service, known as longevity pay, nor rental and subsistence allowances for officers.

Requisitions. Armories. Other Buildings

Sec. 4. For the use of such forces, the Governor is hereby authorized to requisition from the Secretary of War such arms and equipment as may be in possession of, and can be spared by, the War Department; and to make available to such forces the facilities of State armories and their equipment and such other State premises and property as may be available. Authorization is hereby provided for school authorities to permit the use of school buildings by the Texas Defense Guard; provided further that County Commissioners, Courts, city authorities, communities, and civic and patriotic organizations are empowered and authorized by this Act to provide funds, armories, equipment, material, transportation, or other appropriate services or facilities, to the Texas Defense Guard.

Use without this State

Sec. 5. Such forces shall not be required to serve outside the boundaries of this State except:

(a) Upon the request of the Governor of another State, the Governor of this State may, in his discretion, order any portion or all of such forces to assist the military or police forces of such other State, who are actually engaged in defending such other State. Such forces may be recalled by the Governor at his discretion.

(b) Any organization, unit, or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of this State into another State until they are apprehended or captured by such organization, unit, or detachment, or until the military or police forces of the other State, or the forces of the United States, have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons; provided such other State shall have given authority by law for such pursuit by such forces of this State. Any such person who shall be apprehended or captured in any other State by an organization, unit, or detachment of the forces of this State shall without unnecessary delay be surrendered to the military or police forces of the State in which he is taken, or to the United States, but such surrender shall not constitute a waiver by this State of its right to extradite or prosecute such person for any crime committed in this State.

Permission to forces of other States

Sec. 6. Any military forces or organization, unit, or detachment thereof, of another State, who are in fresh pursuit of insurrectionists,

saboteurs, enemies, or enemy forces, may continue such pursuit into this State until the military or police forces of this State or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons, and are hereby authorized to arrest or capture such persons within this State while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other State while in this State shall without unnecessary delay be surrendered to the military or police forces of this State to be dealt with according to law. This Section shall not be construed so as to make unlawful any arrest in this State which would otherwise be lawful.

Federal Service

Sec. 7. Nothing in this Act shall be construed as authorizing such forces, or any part thereof, to be called, ordered, or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

Civil Groups

Sec. 8. No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

Disqualifications

Sec. 9. No person shall be commissioned or enlisted in such forces who is not a citizen of the United States, or who has been expelled or dishonorably discharged from any military or naval organization of this State, or of another State, or of the United States.

Oath of Officers

Sec. 10. The oath to be taken by officers commissioned in the Texas Defense Guard shall be substantially in the form prescribed for officers of the National Guard, substituting the words "Texas Defense Guard" where necessary.

Enlisted Men

Sec. 11. Persons shall be enlisted for three (3) years unless sooner demobilized or discharged by authority of the Governor. The oath to be taken upon enlistment in the Texas Defense Guard shall be substantially in the form prescribed for enlisted men of the National Guard, substituting the words "Texas Defense Guard" where necessary. It shall be the duty of the Governor to disband or demobilize units of the Texas Defense Guard and the officers thereof, ratably and progressively upon the release of the Texas National Guard units from active Federal service and return to their home stations, provided that the Governor shall in his judgment accomplish the disbanding and demobilization of Texas Defense Guard units in conjunction with the return of the National Guard units so as to preserve in any locality or area of the State or in the State as a whole, proper defense of such areas; and provided further that upon the return of all of the Texas National Guard units to home station, all or any remaining units of the Texas Defense Guard will be disbanded or demobilized in accordance with the provisions of Section 61 of the National Defense Act as amended and approved by the President, October 21, 1940.

Articles of War. Freedom from Arrest. Jury Duty**Sec. 12.**

(a) Whenever such forces or any part thereof shall be ordered out for active service, the Articles of War of the United States applicable to members of the National Guard of this State in relation to courts martial, their jurisdiction, and the limits of punishment, and the rules and regulations prescribed thereunder, shall be in full force and effect with respect to the Texas Defense Guard.

(b) No officer or enlisted man of the Texas Defense Guard shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of such forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty.

Severability

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or 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.

Repeal

Sec. 14. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Short Title

Sec. 15. This Act may be cited as the Texas Defense Guard Act, 1941. Acts 1941, 47th Leg., p. 17, ch. 9.

Approved and effective Feb. 10, 1941.

Section 16 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Unlawful wearing, sale, or purchase of insignia of Texas Defense Guard, see Vernon's Rev. Pen. Code, art. 147c.

Title of Act:

An Act to create a Texas Defense Guard in the State of Texas during such time as any part of the National Guard is in active Federal service; to provide for the organization, maintenance, training, and discipline thereof and rules and regulations

necessary thereto; providing tenure of enlistment and vesting the Governor with authority to disband or demobilize units of the Texas Defense Guard in conjunction with the return of the National Guard units provided all units of the Texas Defense Guard will be disbanded or demobilized in accordance with the provisions of Section 61 of the National Defense Act; providing a saving clause; repealing all Acts or parts of Acts inconsistent therewith; providing a title for the Act; and declaring an emergency. Acts 1941, 47th Leg., p. 17, ch. 9.

TITLE 99—NOTARIES PUBLIC

Article 5949. 6002, 3503 Secretary of State to appoint all Notaries Public

The Secretary of State of the State of Texas shall appoint a convenient number of notaries public for each county. Notaries public may be appointed at any time, but the terms of all notaries public shall end on June first of each odd numbered year. To be eligible for appointment as notary public, a person shall be at least twenty-one (21) years of age and a resident of the county for which he is appointed; provided, however, that where such person resides within the limits of any incorporated city, town, or village located in two counties, said person may be

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

appointed notary public for either such county. As amended Acts 1941, 47th Leg., p. 853, ch. 528, § 1.

Approved and effective June 18, 1941.

Section 2 of the amendatory Act of 1941 read as follows: "Nothing in this Act shall affect the term of office of any person qualifying as a notary public prior to the

effective date hereof." Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 5954. Authority of notary; printing or stamping of name under signature

Notaries Public shall have the same authority to take acknowledgments or proofs of written instruments, protests instruments permitted by law to be protested, administer oaths, and take depositions, as is now or may hereafter be conferred by law upon County Clerks, and provided further that all Notaries Public shall print or stamp their names under their signatures on all such written instruments, protests instruments, oaths, or depositions; provided that failure to so print or stamp their names under their signatures shall not invalidate such acknowledgment. As amended Acts 1941, 47th Leg., p. 120, ch. 94, § 1.

Approved and effective April 1, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

TITLE 101—OFFICIAL BONDS

Art.

6003a. Bond to inure to benefit of persons aggrieved; limitations [New].

Art. 6003a. Bond to inure to benefit of persons aggrieved; limitations

That in all suits on account of the defalcation of, or misapplication, or misappropriation of money by, any public officer in this State the official bond or bonds of such officers executed after this Act takes effect shall inure to the benefit of the persons aggrieved by such defalcation, misapplication, or misappropriation occurring during the period covered by such bonds, and that for all purposes of limitation such suits by such persons on such bonds shall be considered and treated as actions for debt founded upon a contract in writing and governed by the four-year Statute of Limitation. Acts 1941, 47th Leg., p. 383, ch. 213, § 1.

Approved May 7, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Title of Act:

An Act to provide that in all suits on account of the defalcation of, or misapplication or misappropriation of money by, any public officer in this State the official bond or bonds of such officers executed after this Act takes effect shall in-

ure to the benefit of the persons aggrieved by such defalcation, misapplication, or misappropriation occurring during the period covered by such bonds, and that for all purposes of limitation such suits by such persons on such bonds shall be considered and treated as actions for debt founded upon a contract in writing and governed by the four-year Statute of Limitation. Acts 1941, 47th Leg., p. 383, ch. 213.

TITLE 102—OIL AND GAS**GENERAL PROVISIONS****Art. 6008. 7849 Production and use of natural gas****Waste defined and prohibited**

Sec. 3. The production, transportation, or use of natural gas in such manner, in such amount, or under such conditions as to constitute waste is hereby declared to be unlawful and is prohibited. The term "waste" among other things shall specifically include:

(a) The operation of any oil well, or wells with an inefficient gas-oil ratio.

(b) The drowning with water of any stratum or part thereof capable of producing gas in paying quantities.

(c) Underground waste or loss however caused and whether or not defined in other subdivisions hereof.

(d) Permitting any natural gas well to burn wastefully.

(e) The creation of unnecessary fire hazards.

(f) Physical waste or loss incident to, or resulting from, so drilling, equipping, or operating well or wells as to reduce or tend to reduce the ultimate recovery of natural gas from any pool.

(g) The escape into the open air, from a well producing both oil and gas, of natural gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(h) The production of natural gas in excess of transportation or market facilities, or reasonable market demand for the type of gas produced.

(i) The use of natural gas for the manufacture of carbon black without first having extracted the natural gasoline content from such gas, except where it is utilized in a plant producing an average recovery of not less than five (5) pounds of carbon black to each one thousand (1,000) cubic feet of gas it shall not be necessary to first extract the natural gasoline content from such gas.

(j) The use of sweet gas produced from a gas well for the manufacture of carbon black unless it is utilized in a plant producing an average recovery of not less than five (5) pounds of carbon black to each one thousand (1,000) cubic feet and unless such sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas.

(k) Permitting any natural gas produced from a gas well to escape into the air before or after such gas has been processed for its gasoline content.

(l) The production of natural gas from a well producing oil from a stratum other than that in which the oil is found, unless such gas is produced in a separate string of casing from that in which the oil is produced.

(m) The production of more than one hundred thousand (100,000) cubic feet of gas to each barrel of crude petroleum oil unless such gas is put to one or more of the uses authorized for the type of such gas so produced under allocations made by the Commission. As amended Acts 1941, 47th Leg., p. 117, ch. 91, § 1.

Approved and effective April 1, 1941.

Section 5 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

Limiting escape of gas encountered in well and purpose of utilization of gas.

Sec. 7. After the expiration of ten (10) days from the time of encountering gas in a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized for the following purposes:

(1) No sweet gas shall be utilized except for:

(a) Light or fuel.

(b) Efficient chemical manufacturing, other than the manufacture of carbon black, provided, however, that sweet gas produced from wells located in a common reservoir producing both sweet and sour gas may be used for the manufacture of carbon black where it is utilized in a plant producing an average recovery of not less than five (5) pounds of carbon black to each one thousand (1,000) cubic feet of gas.

(c) Bona fide introduction of gas into oil, or gas bearing horizon, in order to maintain or increase the rock pressure or otherwise increase the ultimate recovery of oil or gas from such horizon.

(d) The extraction of natural gasoline therefrom when the residue is returned to the horizon from which it is produced.

(2) In addition to the purposes for which sweet gas produced from a gas well may be used, sour gas may be used for efficient chemical manufacturing purposes including the manufacture of carbon black provided it is utilized in a plant producing a recovery of not less than one pound of carbon black to each one thousand (1,000) cubic feet of gas, and provided further that the gasoline content is removed and saved from such sour gas before the same is utilized for carbon black.

(3) Casinghead gas may be used for any beneficial purpose, which includes the manufacture of natural gasoline.

(4) Any producer of either sweet or sour gas or casinghead gas may use the same as gas lift in the bona fide production of oil where such gas is not used in excess of ten thousand (10,000) cubic feet per barrel of oil produced; provided that in order to prevent waste in any case where the facts in such case warrant it, the Commission may permit the use of additional quantities of gas to lift oil, provided all such gas so used in excess of ten thousand (10,000) cubic feet for each barrel of oil shall be processed for natural gasoline and the residue burned for carbon black when same is reproduced. As amended Acts 1941, 47th Leg., p. 117, ch. 91, § 2.

Effective date and emergency section; see note under section 1 of this article.

Sections 3 and 4 of the amendatory Act of 1941, provided as follows:

"Sec. 3. If any section, or sections, clause, sentence, or provision of this Act should for any reason be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act and such remaining parts shall remain in full force and effect.

"Sec. 4. All laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed, but where the same are not in conflict, the provisions of this Act shall be cumulative of existing laws."

Interstate Compact to Conserve Oil and Gas as extended to Sept. 1, 1943, see article 6008—1 and notes thereto.

Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Section 1. The Governor of the State of Texas is hereby authorized and empowered, for and in the name of the State of Texas, to execute an agreement with other States now members of The Interstate Oil Compact Commission, by the terms of which The Interstate Compact to Conserve Oil and Gas, executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the

United States, shall be extended for a period of two (2) years from its expiration date (September 1, 1941), subject to the approval of Congress.

Sec. 2. The Interstate Compact to Conserve Oil and Gas referred to in the above Section and which was ratified, approved, and confirmed by Chapter 81 of the Acts of the Regular Session of the Forty-fourth Legislature of the State of Texas,¹ and which it is hereby proposed to extend by agreement subject to the approval of Congress, reads as follows:

"An interstate compact to conserve oil and gas

"Article I.

"This agreement may become effective within any compacting State at any time as prescribed by that State, and shall become effective within those States ratifying it whenever any three (3) of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing State may become a party hereto as hereinafter provided.

"Article II.

"The purpose of this Compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

"Article III.

"Each State bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

"(a) The operation of any oil well with an inefficient gas-oil ratio.

"(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas in paying quantities.

"(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

"(d) The creation of unnecessary fire hazards.

"(e) The drilling, equipping, locating, spacing, or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

"(f) The inefficient, excessive, or improper use of the reservoir energy in producing any well.

"The enumeration of the foregoing subjects shall not limit the scope of the authority of any State.

"Article IV.

"Each State bound hereby agrees that it will, within a reasonable time, enact Statutes, or if such Statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation Statutes or any valid rule, order, or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

"Article V.

"It is not the purpose of this Compact to authorize the States joining herein to limit the production of oil or gas for the purpose of establishing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas preventing the avoidable waste thereof within reasonable limitations.

"Article VI.

"Each State joining herein shall appoint a representative to a Commission hereby constituted and designated as The Interstate Oil Compact Commission, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

"The Commission shall have power to recommend the coordination of the exercise of the police powers of the several States within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said States, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"No action shall be taken by the Commission, except: (1) by the affirmative votes of the majority of the whole number of the compacting States, represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting States at said meeting, such interest to be determined as follows: such vote of each State shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half year to the daily average production of the compacting States during said period.

"Article VII.

"No State by joining herein shall become financially obligated to any other State, nor shall the breach of the terms hereof by any State subject such State to financial responsibility to the other States joining herein.

"Article VIII.

"This Compact shall expire September 1, 1939. But any State joining herein may, upon sixty (60) days notice, withdraw herefrom.

"The representatives of the signatory States have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory States.

"This Compact shall become effective when ratified and approved as provided in Article I. Any oil-producing State may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

"Done in the City of Dallas, Texas, this sixteenth day of February, 1935.

"E. W. Marland
The Governor of the State of Oklahoma
"James V. Allred
The Governor of the State of Texas
"R. L. Patterson
For the State of California
"Frank Vesley
"E. H. Wells
"Hugh Burch
"Hiram M. Dow
For the State of New Mexico

"The following representatives recommend to their respective Governors and Legislatures the ratification of the foregoing agreement.

"John W. Olvey of Arkansas
 "Warwick M. Downing of Colorado
 "William Bell of Illinois
 "Gordon F. Van Eenanaam
 "Gerald Cotter of Michigan
 "Ralph J. Pryor
 "E. B. Shawyer
 "T. C. Johnson of Kansas."

Sec. 3. The agreement to extend said Interstate Compact to Conserve Oil and Gas, and which the Governor of this State is hereby authorized and empowered to execute for and in the name of the State of Texas shall be in substance as follows:

"It is hereby agreed that the Interstate Compact to Conserve Oil and Gas executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby extended for a period of two (2) years from its date of expiration (September 1, 1941), this agreement to become effective when executed by any three (3) of the States of Texas, Oklahoma, California, Kansas, and New Mexico, and consent thereto is given by Congress."

Sec. 4. The Governor of Texas is authorized and empowered for and on behalf of the State of Texas to determine if and when it shall be for the best interest of the State of Texas to withdraw from said Compact upon sixty (60) days notice as provided by the terms of the Compact. In the event he shall determine that this State should withdraw from said Compact, he shall have full power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the State of Texas from said Compact. As amended Acts 1941, 47th Leg., p. 76, ch. 63.

¹ Article 6008 note.

Section 5 of the Act of 1941 declared an emergency and provided that the act should take effect from and after its passage.

Complementary Laws

Extension to Sept. 1, 1943: Resolution of Congress Aug. 21, 1941, c. 400, 55 Stat. 666; Illinois, Laws 1941, p. 949 (Smith-

Hurd Stats. ch. 104, § 24); Kansas Laws 1941, ch. 279; New Mexico, Laws 1941, ch. 14; Oklahoma Laws 1941, p. 211 (52 Okl.St. Ann. § 201 note).

Arkansas Laws 1941, Act No. 86, p. 179; New York, L. 1941, c. 501; Pennsylvania, Act 1941, July 23, P.L. 435 (58 P.S. §§ 191-196.)

Art. 6049b. Marginal wells defined; curtailing production

Section 1. The term "marginal well" as used herein means any oil well which is incapable of producing its maximum capacity of oil except by pumping, gas lift, or other means of artificial lift, and which well so equipped is capable, under normal unrestricted operating conditions, of producing such daily quantities of oil as herein set out, as would be damaged, or result in a loss of production ultimately recoverable, or cause the premature abandonment of same, if its maximum daily production were artificially curtailed. The following described wells shall be deemed "marginal wells" in this State:

(a) Any oil well incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift, within this State and having a maximum daily capacity for production of ten (10) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a depth of two thousand (2,000) feet or less.

(b) Any oil well incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift, within this State and having a maximum daily capacity for production of twenty (20) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than two thousand (2,000) feet and less in depth than four thousand (4,000) feet.

(c) Any oil well incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift, within this State and having a maximum daily capacity for production of twenty-five (25) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than four thousand (4,000) feet and less in depth than six thousand (6,000) feet.

(d) Any oil well incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift, within this State and having a maximum daily capacity for production of thirty (30) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than six thousand (6,000) feet and less in depth than eight thousand (8,000) feet.

(e) Any oil well incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift, within this State and having a maximum daily capacity for production of thirty-five (35) barrels or less, averaged over the preceding thirty (30) consecutive days, producing from a horizon deeper than eight thousand (8,000) feet.

The words, "gas lift," when used in this Section shall mean gas lift by the use of gas not in solution with oil produced. As amended, Acts 1941, 47th Leg., p. 892, ch. 550, § 1.

Approved and effective June 30, 1941.

Section 2 of the amendatory Act of 1941 the Act should take effect from and after declared an emergency and provided that its passage.

Art. 6049e. Definitions

Effective period

Sec. 20. Repealed. Acts 1941, 47th Leg., p. 907, ch. 559, § 1.

Approved and effective July 2, 1941.

TITLE 103—PARKS

4F. JIM HOGG MEMORIAL PARK

[New]

Art.

6077h. Jim Hogg Memorial Park.

4G. KING'S MEMORIAL STATE PARK

[New].

6077i. King's Memorial State Park.

6. CITY PARKS

Art.

6081g. Cities of 60,000 or more bordering on Gulf of Mexico granted use and occupancy for park purposes of tidelands and waters [New].

1. STATE PARKS BOARD

Art. 6067. Creating Board

Taking fish from waters of public park under control of State Parks Board, see, Vernon's Rev.Pen.Code, art. 928b.

Art. 6070a. Park concessions; funds; prison labor

Section 1. The State Parks Board is hereby authorized to operate or grant concessions in State Parks and to operate concessions or make concession contracts for any causeway, beach drive, or other improvements in connection with State Park sites wherever feasible. The revenue thus earned by the State Parks Board shall, when collected, be placed in the State Treasury. The Board may make such rules and regulations for the carrying out of this Act and the laws of this State relative to State Parks, as it may deem necessary not in conflict with law. As amended, Acts 1941, 47th Leg., p. 691, ch. 431, § 1.

Approved and effective June 2, 1941.

Section 2 of the amendatory Act of 1941 the Act should take effect from and after declared an emergency and provided that its passage.

4 F. JIM HOGG MEMORIAL PARK [NEW]

Art. 6077h. Jim Hogg Memorial Park

That the State of Texas accepts the title to approximately one hundred and eighty (180) acres of land, a part of the General Joseph L. Hogg homestead in Cherokee County, tendered as a donation by the heirs of Governor James Stephen Hogg and dedicates it as a public State Park in commemoration of the birth of Governor James Stephen Hogg, said park to be known as the Jim Hogg Memorial Park, and agrees to beautify and protect same, which said ground shall be under the care and direction of the State Parks Board, such improvements to include as far as possible a replica of the original Hogg home and grounds adjacent to the residence. Acts 1941, 47th Leg., p. 266, ch. 180, § 1.

Approved April 29, 1941.

Effective April 29, 1941.

Title of Act:

An Act to create and dedicate a State Park in the County of Cherokee, two (2) miles northeast of the Town of Rusk, to include the homestead of General Joseph L. Hogg, the birthplace of Governor James Stephen Hogg, such as now owned by the

descendants of James Stephen Hogg and the Town of Rusk and such adjacent land as may be acquired by the State Parks Board by donation as a part of the park to be established, said park to be known as the Jim Hogg Memorial Park; and declaring an emergency. Acts 1941, 47th Leg., p. 266, ch. 180.

4 G. KING'S MEMORIAL STATE PARK [NEW]

Art. 6077i. King's Memorial State Park

Section 1. The State of Texas hereby accepts title to the ground tendered to it by the Town of Refugio and hereby dedicates it as a Public Memorial State Park, which park shall be under the care and direction of the State Board of Control and shall be styled King's Memorial State Park.

Sec. 2. The Governor shall biennially appoint three (3) resident citizens of Refugio County who shall be known as the King's Memorial State Park Commissioners who shall advise and assist the Board of Control in the improvement, care and preservation of said land. Acts 1941, 47th Leg., p. 687, ch. 428.

Approved and effective May 31, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act accepting title to and estab-

lishing King's State Park and setting up a Board of Commissioners to advise and assist the Board of Control in the improvement, care and preservation of said park, and declaring an emergency. Acts 1941, 47th Leg., p. 687, ch. 428.

5. COUNTY PARKS

Art. 6078. Tax for parks

Each Commissioners Court is authorized to levy and collect a tax not to exceed five (5) cents on each one hundred dollars assessed valuation of the county for the purchase and improvement of lands for use as county parks. No such tax shall be levied and collected until the proposition is submitted to and ratified by the property taxpaying voters of the county at a general or special election called for that purpose, provided, a two-thirds majority of the property taxpaying voters of such county, at an election held for such purpose shall determine in favor of said tax. If said court desires to establish two or more of such county parks, they shall locate them in widely separated portions of the county. Said court shall have full power and control over any and all such parks and may levy and collect an annual tax sufficient in their judgment to properly maintain such parks and build and construct pavilions and such other buildings as they may deem necessary, lay out and open driveways and walks, pave the same or any part thereof, set out trees and shrubbery, construct ditches or lakes, and make such other improvements as they may deem proper. Such parks shall remain open for the free use of the public under such reasonable rules and regulations as said court may prescribe.

Section 2. All parks acquired by authority of this Act shall be under the control and management of the county acquiring the same, provided that the Commissioners Court may by agreement with the State Parks Board turn the land over to the State Parks Board to be operated as a public park; the expense of the improvement and operation of such park to be paid by the county and/or cooperative Federal agencies according to the agreement to be made between such county and the State Parks Board.

Section 3. If any section, subsection, paragraph, sentence, clause, or provision of this Act shall, for any reason, be held invalid, such invalidity shall not affect any other portion of this Act or the application of such section, subsection, paragraph, sentence, clause, or provision to any other person or situation, but this Act shall be con-

strued and enforced as if such invalid provisions had not been contained therein. As amended Acts 1941, 47th Leg., p. 437, ch. 270, § 1.

Approved May 9, 1941.
Effective May 9, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

6. CITY PARKS

Art. 6081e. Condemnation or purchase by county or incorporated city of land for parks or playgrounds; cooperation with State Parks Board

Bonds and taxes

Section 2. To purchase and/or improve lands for park purposes, an incorporated city and/or county may issue bonds, and may levy a tax not exceeding Ten (10¢) Cents on the One Hundred (\$100.00) Dollars valuation of taxable property in such city and/or county to pay the interest and provide a sinking fund to retire such bonds, the issuance of such bonds, and the collection of taxes in payment thereof to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of 1925, governing the issuance of bonds by cities, towns and/or counties in this State; this Section shall be construed to authorize the levying of said tax not exceeding Ten (10¢) Cents on the One Hundred (\$100.00) Dollars of valuation notwithstanding the provisions of Article 6080 of the Revised Civil Statutes of 1925. As amended Acts 1941, 47th Leg., p. 645, ch. 389, § 1.

Approved May 30, 1941.

Effective 90 days after July 3, 1941; date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 6081g. Cities of 60,000 or more bordering on Gulf of Mexico granted use and occupancy for park purposes of tidelands and waters

Section 1. That any City in this State bordering upon the Gulf of Mexico, which has or hereafter may have a population of sixty thousand (60,000) or more inhabitants as shown by the next preceding Federal Census taken before any action by such City is taken hereunder, shall have, and is hereby granted for park purposes, the right of use and occupancy of the tidelands between the lines of the ordinary high tide and the ordinary low tide of the Gulf of Mexico and the adjacent waters of the Gulf of Mexico, and the bed thereof, for a distance into and over the waters and bed of the Gulf of Mexico, of not over two thousand (2,000) feet from the line of ordinary high tide, between extensions into the Gulf of Mexico of property lines of property above and fronting upon the tidelands owned or acquired by the City for park purposes, or in or to which it has, or may acquire easements, or other rights or privileges authorizing it to use and occupy the same for park purposes, and such City may declare abandoned for use as streets or highways and take, occupy and use for park purposes any lands, or parts thereof theretofore dedicated as public streets or highways which because of submersion by the waters of the Gulf of Mexico or the building of a seawall, breakwater, or other structure, have become unfit for use as streets or highways, if so found and declared by the governing body of the City; provided, however, that nothing in this Act contained shall be deemed as authorizing the taking of any private property or interest therein without compensation as required by the Constitution of the State of Texas.

The right of use and occupancy granted herein is upon the express condition that the State of Texas shall retain all of the oil, gas and other mineral rights in and under any of the land which it owns affected hereby.

The governing body of any such City shall have full rights of management and control of such tidelands, waters and bed of the Gulf of Mexico to the extent above allowed for park purposes including the right and power on the part of such governing body, within its discretion, to acquire, erect, build and construct, repair, enlarge, extend, improve and remodel, furnish and equip and conduct, operate and maintain upon, over and into such tidelands and waters and bed of the Gulf of Mexico, a pier extending from the shore, with structures thereon to provide facilities for recreation, amusement, comfort and assemblies of the public; provided, however, that no City shall maintain and operate more than one such pier and no such pier shall extend into the Gulf of Mexico a distance in excess of two thousand (2,000) feet from the line of ordinary high tide, nor shall any such pier be constructed or maintained in any part of any channel deepened or improved for commercial navigation or between the shore line and any such channel, or in any arm, inlet, bay or body of water other than the main body of the Gulf of Mexico.

Without limiting the authority of the governing body of any City erecting any pier as above authorized to determine the suitability of structures and facilities to be provided thereon for the purposes above authorized, it is here declared and enacted that for such purposes there may be erected, provided, operated and maintained thereon, among other facilities, a room for a theatre, a room for a restaurant, a convention hall, a dance hall, an aquarium, an exhibition hall, a stadium for aquatic sports, spaces and platforms for concessions and amusement devices, a platform from which fishing may be carried on, together with walk-ways, rest room, toilet facilities and resting places and facilities for the comfort of the public; it being here expressly declared that the listing of such facilities as are just above named is not intended to and shall not exclude other facilities and uses reasonably adapted and suitable for park purposes upon, or in connection with any such pier.

Acquisition of privately owned lands for park purposes in connection with pier

Sec. 2. Any City of the class defined in the preceding Section, erecting, or to erect any such pier, as is authorized in such Section, shall be, and is hereby empowered to acquire by gift, purchase, or condemnation, such privately owned land and rights in privately owned land within the limits of the City, for use for park purposes in connection with such pier as the governing body of the City may determine to be necessary.

Bonds and taxes for pier; election

Sec. 3. That for the purpose of obtaining funds to defray in whole, or in part, the costs of acquiring privately owned lands, if any, to be used in connection with any such pier or structure as is authorized in Section 1 hereof, and the cost of erecting, constructing, furnishing and equipping the same, any City of a class covered by this Act may borrow money and may issue its negotiable bonds and levy and collect annual ad valorem taxes not in excess of any Constitutional limitation sufficient to pay the interest on and provide a sinking fund for such bonds with which to pay them as they mature; provided, however, that the terms and requirements of Chapter 1, Title 22, Revised Civil Statutes of 1925 and Acts amendatory of and supplementary thereto, shall apply to and gov-

ern the issuance of all such bonds; and provided, further, that when any bonds to be issued for a purpose herein authorized have heretofore been duly authorized at an election called and conducted in the manner prescribed and required by the aforesaid Chapter 1, Title 22, Revised Civil Statutes of 1925 and Acts amendatory of and supplementary thereto, the governing body of the City wherein such election has been conducted may issue the bonds authorized at such election without another election thereon. If the governing body of the City so decides, the proceeds of bonds issued under authority of this Section may be used to pay in part the cost of building, erecting, constructing, furnishing and equipping any such structures, or improvements as are authorized by this Act which, together with lands and interest in lands occupied by, or used in connection therewith, and the income therefrom may have been, or are to be mortgaged and encumbered for the purpose of providing funds with which to pay additional costs of acquiring, building, erecting, constructing, furnishing, or equipping the same; or for any one or more of such purposes.

Mortgaging pier, equipment and income

Sec. 4. That any City acquiring, building, erecting, constructing, furnishing, or equipping any such pier, structure, or improvement as is authorized by this Act shall have the power through its governing body to mortgage and encumber such pier, structure or improvement, its furnishings and equipment and its income, together with all lands and interests, easements and other rights in lands acquired or to be acquired and used in connection therewith, including the right of use and occupancy of the tidelands and waters and bed of the Gulf of Mexico herein granted, for the purpose of securing the payment of bonds, notes or warrants which are hereby authorized to be issued by the governing body of the City to provide funds for the payment of all or any part of the costs of acquiring lands and interests in lands to be used in connection therewith, and of building, erecting, constructing, furnishing or equipping such pier, structure, or improvement; and as additional security for such bonds, notes or warrants by the terms of such mortgage may grant to the purchaser under sale or foreclosure thereunder a franchise to operate the properties purchased for a period of not over thirty-five (35) years after the purchase thereof and during such period in the case of any pier or structure erected, wholly or in part, over and into the tidelands and waters and bed of the Gulf of Mexico, such purchaser, his, their, or its heirs, successors or assigns, shall have a like right of use and occupancy of the tidelands and waters and bed of the Gulf of Mexico in connection with such pier or structure for like purposes as are herein granted to the City; and such right of use and occupancy upon the termination of such period, or upon the cessation of the use of the properties for such purposes occurring prior to the termination of such period, shall revert to the City. The power to mortgage and encumber in this Section granted may be exercised as to property acquired, built, erected, constructed, furnished or equipped for the purposes in this Act authorized, whether the entire cost thereof shall be defrayed wholly from the proceeds of notes, bonds, or warrants secured by such mortgage, or encumbrance, or partly from such proceeds and partly with proceeds of bonds or warrants issued under authority of Section 3 and Section 5 hereof, or either of them, or with funds obtained from any other lawful source.

All bonds issued under the authority of this Section shall be made payable to bearer or the order of a named payee and shall be negotiable

instruments and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of this State, but shall be payable solely from the special fund herein provided and shall be additional and secured by the mortgage and franchise above authorized. Such bonds shall bear such interest not exceeding six per cent (6%) per annum, have such dates and such maturities serially or otherwise not exceeding forty (40) years from their dates, be in such denominations and be payable as to principal and interest at such places which may be at any bank, either within or without the State, in such medium of payment, contain such provisions for redemption prior to maturity and be in such form with interest coupons in such form as the governing body of the City may determine. No such bond or interest coupon bearing the signature or facsimile signature of any official of the City duly authorized to sign the same at the time such signature may be actually affixed thereto, shall be invalid by reason of such official ceasing to hold office prior to the delivery of such bond, or not having held office on the date of such bond.

Interest on such bonds may be made payable in such manner as the governing body of the City may prescribe and any interest coupons may bear facsimile signatures. Such bonds may in the discretion of the governing body of the City be made registerable as to principal and interest, or as to principal only, under such terms as the governing body may prescribe or may be issued not subject to registration.

No obligation issued and secured under authority of this Section shall ever be a debt of the City issuing the same, but shall be solely a charge upon the properties and income thereof encumbered and shall never be reckoned in determining the power of such City to issue any bonds for any purpose authorized by law. Every such obligation shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised, or to be raised, by taxation."

The nature of the encumbrance of the properties to secure any such obligations and the control, management and operation of such properties while any such obligation remains unpaid, shall be subject to and be governed by Articles 1113, 1114, 1115, 1116, 1117 and 1118 of Revised Civil Statutes of 1925 in like manner as are parks and systems named in Article 1111 of Revised Civil Statutes of 1925.

The governing body of the City is hereby authorized to provide by ordinance for the issuance of revenue refunding bonds of the City for the purpose of refunding any revenue bonds issued under the provisions of this Section and then outstanding, together with accrued interest thereon. The issuance of such revenue bonds, the maturities and all other details thereof, the rights of the holders thereon and the duties of the City in respect to the same, shall be governed by the provisions of this Act insofar as the same may be applicable.

Additional taxes; limitation on rate

Sec. 5. That in addition to any taxes authorized for the purpose of paying the interest on and principal of any bonds issued under authority of Section 3 hereof, the governing body of any City building or acquiring a pier, structure or improvements with proceeds of bonds or warrants issued under authority of Sections 3 and 4 hereof, either or both, shall have and is hereby given the power to levy and collect annual ad valorem taxes of, and at a rate not to exceed Five (5¢) Cents in any one (1) year on each One Hundred (\$100.00) Dollars valuation of taxable property in such City for the purpose of defraying in part the cost of acquiring,

building, constructing, erecting, furnishing or equipping such pier, structure, or improvement or the cost of land, or interest in land to be used in connection therewith, or for the purpose of repairing, enlarging, extending, altering or improving the same after completion; and within its discretion, such governing body for such purposes, or any of them, may issue interest-bearing time warrants of the City to be payable from taxes authorized to be levied and collected by this Section.

Partial invalidity

Sec. 6. That invalidity of any Section, term or provision hereof shall not render invalid the remaining Sections, terms and provisions hereof which would otherwise be valid.

Powers additional and supplemental

Sec. 7. The provisions of this Act shall be deemed to provide additional and alternative methods of doing the things herein authorized and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing, or which may hereafter be conferred by law. Acts 1941, 47th Leg., p. 10, ch. 7.

Approved and effective Feb. 12, 1941. should take effect from and after its passage.
Section 8 of the Act of 1941 declared an emergency and provided that the Act

TITLE 104—PARTITION

1. PARTITION OF REAL ESTATE

Art. 6083. 6097, 3607, 3466 Petition

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 756, Vernon's Texas Rules of Civil Procedure.

Art. 6084. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 757, Vernon's Texas Rules of Civil Procedure.

Art. 6085. 6099, 3609 Where defendant is unknown

Repeal by Rules of Civil Procedure. This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941.

Arts. 6086-6097. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 760-771, Vernon's Texas Rules of Civil Procedure.

2. PARTITION OF PERSONAL PROPERTY

Art. 6102. 6117, 3627, 3485 Suit begun in what court

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 772, Vernon's Texas Rules of Civil Procedure.

Arts. 6103-6105. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 773-775, Vernon's Texas Rules of Civil Procedure.

3. MISCELLANEOUS PROVISIONS

Arts. 6106, 6107. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 776, 777, Vernon's Texas Rules of Civil Procedure.

Art. 6109. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 778, Vernon's Texas Rules of Civil Procedure.

TITLE 106—PATRIOTISM AND THE FLAG

Art.

6145—1. Governor James Stephen Hogg
Memorial Shrine [New].

Art. 6144. Home Guard

Texas Defense Guard, see art. 5891a.

Article 6145—1. Governor James Stephen Hogg Memorial Shrine

Section 1. There is hereby created a Governor James Stephen Hogg Memorial to be located at Quitman, Texas, upon lands furnished for such purpose by interested persons.

Sec. 2. The Governor of the State of Texas shall appoint three (3) men to serve as a Commission to administer the affairs of the Governor James Stephen Hogg Memorial Shrine, to be located at Quitman, Texas. Such members shall serve for a period of five (5) years from their appointment.

Sec. 3. The Governor James Stephen Hogg Memorial Shrine Commission is hereby authorized to accept gifts of every nature and kind, for the purpose of constructing, building, advertising, or in any manner promoting such Shrine, and accept gifts for exhibition dealing with Texas history and with the life of James Stephen Hogg; and administer the affairs and make rules and regulations for the administration of the affairs; and hire such personnel upon such terms as they deem advisable to carry out the duties of the Commission in connection with the building, construction, or exhibition of historical matter that may be exhibited; and advertise such Shrine. Acts 1941, 47th Leg., p. 269, ch. 183.

Approved May 1, 1941.

Effective May 20, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to create a Governor James Stephen Hogg Memorial Shrine; providing for the appointment of a Commission to administer its affairs; to accept gifts for the purpose of carrying out the provisions of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 269, ch. 183.

TITLE 108—PENITENTIARIES

2. REGULATIONS AND DISCIPLINE

6203b—1. Schools in penitentiaries and penitentiary farms; compulsory attendance [New].

2. REGULATIONS AND DISCIPLINE

Art. 6203b—1. Schools in penitentiaries and penitentiary farms; compulsory attendance

Section 1. The Texas Prison Board shall cause all illiterates to receive instruction the equal of not less than five (5) nor more than eight (8) hours per week and all other prisoners may, at their option, receive academic or vocational instruction at such hours. The hours fixed for such instruction shall be other than those now fixed by law for labor. Nothing herein contained shall prevent the literate prisoners from enrolling in academic instruction or special occupational or vocational instruction as now provided for by the Texas Prison Board.

Sec. 2. Each prisoner attending such instruction in good faith shall be allowed as a credit on the term of his sentence one hour additional for each hour in attendance of school classes.

Sec. 3. It shall be the duty of the Educational Director of the Prison System to organize and direct a standard program of academic and vocational education, under the direction of the Texas Prison Board, and supervise the same after organization. Prisoners, with the aid of the Educational Director, shall be the teachers and instructors.

Sec. 4. The Texas Prison Board is hereby authorized to, and shall, prescribe and promulgate such rules and regulations as may be necessary to make the provisions of this Act effective; but said Texas Prison Board shall not be required to build any additional buildings for this purpose. Upon the request of the Texas Prison Board, it shall be the duty of the State Superintendent of Public Instruction to supply without cost, a sufficient number of current State adopted text books for said instruction.

Sec. 5. If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional. Acts 1941, 47th Leg., p. 1357, ch. 619.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 6 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 7 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act to provide that the Texas Prison Board shall maintain schools in all of the

penitentiaries and penitentiary farms of the State of Texas, providing for compulsory attendance of illiterates, a program of academic and vocational education, and hours of attendance; providing that the State Superintendent of Public Instruction shall supply text books; providing for partial invalidity; repealing conflicting laws; and declaring an emergency. Acts 1941, 47th Leg., p. 1357, ch. 619.

TITLE 109—PENSIONS

2. CITY PENSIONS

Art.
6243e—1. Firemen's relief and retirement fund in cities of 380,000 or more; creation and administration of fund [New].

Art.
6243f. Pensions for policemen, firemen and fire alarm operators in cities having population of 200,000 to 293,000 [New].

2. CITY PENSIONS

Art. 6243a. Pensions for firemen and policemen in cities of 293,000 to 375,000

Board of trustees

Sec. 1. In all incorporated cities and towns containing more than two hundred ninety-three thousand (293,000) inhabitants and less than three hundred seventy-five thousand (375,000) inhabitants according to the last preceding, or any future, Federal Census, having a fully or partially paid Fire and Police Department, there shall be and there is hereby created a Board to consist of seven (7) members, as follows: The Mayor, two (2) Aldermen, Councilmen or Commissioners, each to serve on this Board for the term of office to which they were elected, and two (2) active firemen who shall be selected by the majority vote of the members of the Fire Department, which two (2) members shall be appointed by the governing body of the said city; one (1) for a term of two (2) years and the other for a term of four (4) years; and two (2) active Policemen to be selected by the majority vote of the members of the Police Department, which two (2) members are also to be appointed by the governing body of the said city; one (1) for a term of two (2) years and the other for a term of four (4) years; all said members from the Fire and Police Department shall be elected by the contributors to the Fund, as herein provided, and shall serve until their successors are elected and qualified; and their successors shall be appointed to serve for a term of four (4) years. The said appointees and their successors shall constitute the Board of Trustees of the Firemen, Policemen and Fire Alarm Operators' Pension Fund, to provide for the disbursement of same, and to designate the beneficiaries thereof. The Board shall be known as the Board of Firemen, Policemen and Fire Alarm Operators' Pension Fund Trustees of _____ Texas. A Board, as herein provided, shall be selected upon the enactment of this Act and shall hold its office until the next general election in such city for municipal officers, at which time a Permanent Board shall be selected, as herein provided. The said Board shall organize by choosing one (1) member as Chairman, and by appointing a Secretary, which Board shall have charge of and administer said Fund, and shall order payments therefrom in pursuance of the provisions of this Act. It shall report annually to the governing body of such town or city, the condition of the said Fund and the receipts and disbursements on account of same, with a complete list of the beneficiaries of said Fund, and the amounts paid them. The Board shall have the power and authority, by a majority vote, to reduce the percentages stipulated in any Section or Subsection of this Act which deals with disabilities or with awards granted to beneficiaries. The reduction shall be based upon the

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

degrees of disability and circumstances surrounding the case. The Board shall have the complete authority and power to administer all of the provisions of this Act and any implied powers under this Act.

Membership in

Sec. 2. Each fully paid Fireman, Policeman and Fire Alarm Operator, in the employ of such city or town, who desires himself or his beneficiaries to participate in said Fund, shall file a written statement with the City Clerk, or Secretary, of his desire to participate in said Fund, and authorize said city or town to deduct not less than one (1%) per cent nor more than three (3%) per cent of his wages each month to form a part of the Fund known as The Firemen, Policemen and Fire Alarm Operators' Fund.

Payments of funds

Sec. 3. There shall be deducted for such Fund, from the wages of each Fireman, Policeman and Fire Alarm Operator in the employment of the said city or town, upon a vote of the majority of the members of the said Board of Trustees described in Section 1 of this Act, not less than one (1%) per cent nor more than three (3%) per cent of the wages earned by such employee when he has filed application therefor. Every contributor to said Fund shall be required to pay into the Fund on the base pay of a private and no more. Any donations made to said Fund and rewards received by any members of either of the Departments and all funds received from any source for such Fund, shall be deposited in like manner to such Fund.

Conduct of meetings

Sec. 4. The Board shall hold regular monthly meetings and other meetings upon call of its Chairman. It shall issue orders, signed by the Chairman and Secretary, to the persons entitled thereto of the amounts of money ordered paid to such persons from such Fund by said Board which order shall state for what purposes such payment is to be made. It shall keep a record of the proceedings, which record shall be of public record; it shall at each monthly meeting send to the City Treasury a written list of persons entitled to the payment from the Fund, stating the amount of such payment and for what granted, which list shall be certified and signed by the Chairman and Secretary of such Board attested under oath. The Treasurer shall enter a copy of said list upon the book to be kept for that purpose, which book shall be known as The Record Firemen, Policemen and Fire Alarm Operators' Pension Fund Board, of _____, Texas, and the said Board shall direct payment of the amounts herein to the persons entitled thereto out of said Fund. No money of said Fund shall be disbursed for any purpose without a majority vote of the Board, which shall be a "no" and "yes" vote entered upon the proceedings of the Board.

Custody of fund

Sec. 5. The Treasurer of said city or town shall be Ex-officio Treasurer of said Fund. All money for said Fund shall be paid over to and received by the Treasurer for the use of said Fund, and the duties thus imposed upon such Treasurer shall be additional duties for which he shall be liable under his oath and bond as such city or town Treasurer, but he shall receive no compensation therefor.

Who may share in fund

Sec. 6. Any person who, at the establishment of said Fund, or thereafter, shall have been duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any such city or town, and who has signed an application for participation in said Fund, and has allowed deductions from his salary under any former law and still in good standing, and who has filed written application within thirty (30) days after the organization of such Board, or who shall file his application within sixty (60) days after becoming an active member of such Departments, and after he shall have served the usual probationary period, if any, and who shall have allowed such deductions from his salary; and in addition to the membership provided herein, any person heretofore duly appointed or enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any such city or town who is not now a member of the Pension Fund, may file his application with the Board within sixty (60) days after this Act becomes effective and apply for participation therein; provided, however, that such applicant shall pass a physical examination of the same character that is required for original admission into the respective Department in which he serves, and provided, that he shall pay into such Fund a sum of money equal to the amount of salary deductions he would have paid had he joined immediately upon becoming eligible to participate in the benefits of said Fund; as well as the beneficiaries hereinafter named shall be entitled to participate in said Fund.

Retirement pension

Sec. 7. Where, any member of said departments shall have contributed a portion of his salary as provided herein, and shall have served twenty (20) years in either of said departments, he shall be issued a certificate of retirement, which said certificate shall thereafter be incontestable. The issuance of such certificate shall be mandatory upon the Board; provided, however, that when said member reaches the age of fifty (50) years he may, after making application, be retired. No person to whom such certificate shall have been issued who has not reached the age of fifty (50) years shall be entitled to receive any retirement benefits until he reaches the age of fifty (50) years, and then upon his application. If any such member shall voluntarily or involuntarily leave the service of the City after he has received such certificate and before he reaches the age of fifty (50) years, he shall not be entitled to participate in the benefits of this Act until he is fifty (50) years of age; provided, however, that if any such member voluntarily or involuntarily leaves the service of the City and thereafter becomes physically disabled through no fault of his own before he reaches the age of fifty (50) years, he shall be entitled to apply for, and the Board may grant to him, a disability pension in accordance with this Act, which said pension shall become a retirement pension subject to the provisions of this Act upon his reaching the age of fifty (50) years. In the event such member so retiring, voluntarily or involuntarily, after he has such certificate and before he reaches the age of fifty (50) years, shall die, then his widow, or children, or other dependents named in this Act, if any, shall be entitled to share in the benefits of this Act. A member retiring under the provisions of this Act shall receive one-half ($\frac{1}{2}$) of the salary received by him at the time of his retirement; provided, however, that in no instance shall the monthly pension allowance awarded him be in excess of one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to the member under any provision of any City Charter; which pension allow-

ance shall be computed on the basis of the current payroll. This pension allowance, set out above based on the current payroll, shall be granted to the man going on the Pension Fund as well as the man already on the pension. Any member reaching the age of sixty-five (65) years and having served twenty (20) years in either of the Departments, and who has not then retired from such Departments, may be summoned before the Board for the purpose of determining whether or not he should be retired under the provisions of this Act.

Certificate of retirement

Sec. 8. When any member of the Fire Department, Police Department or Fire Alarm Operators' Department has been issued a Certificate of Retirement under the provisions of Section 7 of this Act, he shall be entitled, after having received said Certificate, to one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to the member under any provision of any City Charter, which pension allowance shall be computed on the basis of the current pay roll. The pension allowance set out above, based on the current pay roll, shall be granted to the man going on the pension as well as the man already on the pension. The said Certificate shall further state that in case of death, or in case where he becomes permanently disabled, he shall be and his beneficiaries shall be entitled to the same awards and rights to participate in the provisions of this Act and any other Act heretofore or hereafter made, as well as any of the provisions of the City Charter heretofore or hereafter made, as he would have had before the said Board issued his Certificate of Retirement. The said Certificate shall be signed by the Mayor, or Mayor Pro Tem, or City Manager, if such City has a City Manager, and by the Chairman of the Pension Board of Firemen, Policemen and Fire Alarm Operators, and attested under the seal of the City by the City Secretary.

Disability pension in line of duty

Sec. 9. When any member of the Fire Department, Police Department, and Fire Alarm Operators' Department of the city or town, and who is contributing to said Fund, as herein provided, shall become so permanently disabled through injury or disease contracted in the line of duty as to incapacitate him from the performance of his duties, and shall make written application subject to medical examination for such injuries or disease, he shall be retired from the service and be entitled to receive from the said Fund one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to the member under the provisions of any City Charter; which base pay of a private shall be computed on the basis of the current payroll. The pension allowance shall be granted to the man going on pension as well as to the man already on the pension at the time he became disabled or diseased, the same to be paid in monthly installments, which monthly installments shall in no instance exceed one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to the member under the provisions of any City Charter. In no case shall a disability claim be acknowledged or award made hereunder until disability has been proven to be continuous and wholly incapacitated for a period of not less than ninety (90) days.

Death benefits of widow, etc.

Sec. 10. In case of the death before or after retirement of any member of the Fire, Police and Fire Alarm Operators' Departments of any city or town, from disease contracted or injury received while in line of

duty, and who at the time of his death or retirement was a contributor to the said Fund, leaving a widow, child or children under seventeen (17) years of age, the widow and such child or children shall be entitled to receive from the said Fund an amount not to exceed one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to members under the provision of any City Charter; one-half ($\frac{1}{2}$) of the widow's amount in the aggregate shall go to the children under seventeen (17) years of age, and balance one-half ($\frac{1}{2}$) for the widow. No child or any such member resulting from any marriage contract subsequent to the date of the retirement of said member, shall be entitled to a pension under this Act. In case there are no children, the widow shall receive one-fourth ($\frac{1}{4}$) of the base pay of a private per month, plus one-fourth ($\frac{1}{4}$) of the service money granted to members under the provisions of any City Charter. The one-fourth ($\frac{1}{4}$) awarded to the children shall be paid by the Board to the widow, who shall equally and uniformly distribute the amount among the children. In no instance shall the amount received by the widow, child or children, exceed a pension allowance of one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to members under any City Charter. Wherein the Board, after a thorough examination and by a majority vote in favor thereof, determines that the child or children are unable to and lack the proper discretion to handle said amount provided herein for them, shall designate and appoint said child's or children's natural guardian as custodian of said Fund. Where there is no parent and natural guardian living, the Board shall have the power and authority to designate a suitable person to receive and administer the said Fund; which said party shall receive, for such child or children under the age of seventeen (17) years, one-fourth ($\frac{1}{4}$) of the base pay of a private, and one-half ($\frac{1}{2}$) of the service money granted to members under any City Charter, per month. The said party designated by the Board shall receive his authority and power according to established legal practice. When any child or children, who are beneficiaries under this Act, shall reach the age of seventeen (17) years, then such child or children shall no longer participate in the division of said wages of said deceased, but the same shall be paid to the remaining child or children, if any, under seventeen (17) years of age. In no case shall the amount paid to any one family exceed the amount of one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to members under the provisions of any City Charter. Upon the remarriage of the widow, either statutory or common law, or the marriage of any child granted such pension, the pension shall cease. No widow, or any such member, resulting from any marriage contract subsequent to the date of the retirement of said member, shall be entitled to a pension under this Act.

Death benefits to father and mother in line of duty

Sec. 11. If any member of the Fire, Police and Fire Alarm Operators' Department dies from injury received, or disease contracted, in line of duty, who was a contributor to said Fund and entitled to participation in said Fund himself, leaves no widow or child but leaves surviving him a dependent father and mother wholly dependent upon said person for support, such dependent father and mother shall be entitled to receive one-half ($\frac{1}{2}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to members under the provisions of any City Charter, to be equally divided between said father and mother, so long as they are wholly dependent. Where there is one dependent, either fa-

ther or mother, the Board shall grant the surviving dependent one-fourth ($\frac{1}{4}$) of the base pay of a private per month, plus one-half ($\frac{1}{2}$) of the service money granted to members under any provisions of any City Charter. The Board shall have authority to make a thorough investigation and from investigation determine the facts as to the dependency of the said parties and each of them, as to how long the same exists; and may, at any time, upon the request of any contributor to such Fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper; and the finding of said Board in regard to any matters, as well as to all pensions granted under this Act, shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustee shall have been set aside or revoked by a Court of competent jurisdiction.

Investigation

Sec. 12. The Board shall consider all cases for retirement and pension of the members of the Fire, Police and Fire Alarm Operators' Departments rendered necessary or expedient under the provisions of this Act; and all applications for pensions by widow, the children, and dependent relatives; and the said Trustees shall give notice to persons asking a pension to appear before said Board and offer such sworn evidence as he, or they, may desire. Any person who is a member of said Departments and who is a contributor to said Fund may appear either in person, or by attorney, and contest the application for participation in said Fund by any person claiming to be entitled to participate therein, and may offer testimony in support of such contest. The Chairman of said Board shall have the authority to issue process for witnesses and administer oaths to said witnesses and to examine any witness as to any matter affecting retirement or a pension under the provisions of this Act. Such process for witnesses shall be served by any member of the Police, Fire or Fire Alarm Operators' Department, and upon the failure of any witness to attend and testify, he or she may be compelled to attend and testify, as in any judicial proceeding.

There shall be appropriated out of the Pension Fund on the majority vote of the members of said Board, Three Hundred (\$300.00) Dollars annually, which money shall be used at the instigation and approval of the Board for the defraying of traveling expenses of investigators used by the Board beyond the boundaries of any incorporated city which operates under this Act.

Medical examination

Sec. 13. Said Board may cause any person receiving any pension under the provisions of this Act, who has served less than twenty (20) years, to appear and undergo medical examination by either the Health Director or some reputable physician selected by the Board; as a result of which the Board shall determine whether the relief in said case shall be continued, increased, decreased, or discontinued. In making the findings the Board may change any percentages stipulated in any section or subsection of this bill, by reducing the same to one-twentieth ($\frac{1}{20}$) for each year served not to exceed one-half ($\frac{1}{2}$) the base pay of a private plus one-half ($\frac{1}{2}$) of the service money granted to the member under the provisions of any City Charter; if any person receiving relief under the provisions of this bill, after due notice, fails to appear and undergo such examination, the Board may reduce or entirely discontinue such relief.

Use of public funds

Sec. 14. No funds shall be paid out of the public Treasury of any such incorporated city or town in carrying out any of the provisions of this Act, except by a majority vote of the voters of said city or town.

Retirement reserve fund

Sec. 15. At the end of the fiscal year all money paid into the Fund, as herein provided, that remains as a surplus over and above the orders for payments as issued by the Board, shall be paid into the Reserve Retirement Fund to accumulate at interest for the benefit of the Reserve Fund needs. All such funds as may accumulate in this special Retirement Reserve shall be invested at regular intervals, or at such times as the accumulations justify, in accordance with Article 5006 of the Revised Civil Statutes of Texas regarding the investment of funds of insurance companies. The Board shall have the power to make these investments for the sole benefit of this Retirement Reserve Fund. The investment shall remain in the custody of the Treasurer in the same manner as provided for the custody of the funds. The Board shall have the power and authority, by a majority vote of its members, to disburse the monies accumulated as the Retirement needs arise.

Awards exempt

Sec. 16. No amount awarded to any person under the provisions of this Act shall be liable for the debts of any such person; shall not be assignable, and shall be exempt from garnishment or other legal process. As amended Acts 1941, 47th Leg., p. 45, ch. 33, § 1.

Filed without Governor's signature,
March 14, 1941.

Effective March 12, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws or parts of laws.

Section 3 of the amendatory Act of 1941 read as follows: "Constitutionality: If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of

the remaining parts of this Act, and the Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

Section 4 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6243e—1. Firemen's relief and retirement fund in cities of 380,000 or more; creation and administration of fund

Section 1. There is hereby created in all incorporated cities in this State having a population of three hundred and eighty thousand (380,000) or more, according to the preceding or any future Federal Census, a fund to be known as the Firemen's Relief and Retirement Fund. Said fund shall be administered in each such city by a board to be known as the Firemen's Relief and Retirement Board.

Board of Trustees; composition; powers; meetings; quorum; vacancies

Sec. 2. That all such incorporated cities in this State having a regularly organized active fire department whether wholly paid or part paid, the Mayor of such city, the city treasurer, or if no treasurer, then the city secretary, or such other person or officer as by law, charter provision or ordinance, performs the duty of city treasurer and three (3) members of such regularly organized active fire department, to be selected by vote of the members of such fire department in the manner hereinafter directed shall be and are hereby constituted the "Board of Firemen's Relief and Retirement Fund Trustees" to receive, handle and control, manage, and disburse such Fund for the respective city and as

such Board shall have the power and authority to hear and determine all applications for retirement, claims for disability, either partial or total and to designate the beneficiaries or persons entitled to participate therein or therefrom as hereinafter directed and which said Board shall be known as the "Board of Firemen's Relief and Retirement Fund Trustees of Texas." The Mayor shall be the chairman and the city treasurer shall be the secretary-treasurer of said Board of Trustees respectively. Within thirty (30) days after this Act takes effect, the fire department of any such city as comes within the provisions of this law shall elect by ballot three (3) of its members, one to serve for one year, one to serve for two (2) years, and one to serve for three (3) years, or until their successors may be elected as herein provided, as members of said Board of Trustees and shall immediately certify such election to the governing body of such city. Annually thereafter, on the first Monday in the month of January after the effective date of this Act, said fire department shall elect by ballot and certify, one member of such Board of Trustees for a three (3) year term. Said Board of Trustees shall elect annually from among their number a vice-chairman who shall act as chairman in the absence or disability of the mayor-chairman. Such Board of Trustees shall hold regular monthly meetings at such time and place as they may by resolution designate and may hold such special meetings upon call of the chairman as he may deem necessary; shall keep accurate minutes of its meetings and records of its proceedings; shall keep separate from all other city funds all moneys for the use and benefit of said Firemen's Relief and Retirement Fund; shall keep a record of all claims, receipts, and disbursements in a book or books to be furnished by said city for the purpose; shall make disbursements from said Fund only upon regular voucher signed by the treasurer and countersigned by the chairman and at least one other member of said Board of Trustees. The city treasurer, as the treasurer of said Board of Trustees, shall be the custodian of the Firemen's Relief and Retirement Fund for such city under penalty of his official bond and oath of office. No member of said Board of Trustees shall receive compensation as such. It shall report annually to the governing body of such city, the condition of the said Fund and the receipts and disbursements on account of same, with a complete list of the beneficiaries of said Fund, and the amounts paid them. The Board shall have the power and authority, by a majority vote, to reduce the percentages stipulated in any Section or Subsection of this Act which deals with disabilities or with awards granted to beneficiaries. The reduction shall be based upon the degrees of disability and circumstances surrounding the case. The Board shall have the complete authority and power to administer all of the provisions of this Act.

Said Board of Trustees shall have the power and authority to compel witnesses to attend and testify before it with respect to all matters connected with the operation of this Act in the same manner as is or may be provided for the taking of testimony before Notaries Public and its chairman shall have the power and authority to administer oaths to such witnesses. A majority of all members shall constitute a quorum to transact business and any order of said Board of Trustees shall be made by vote to be recorded in the minutes of its proceedings. If a vacancy occurs in the membership of said Board of Trustees by reason of the death, resignation, removal or disability of any incumbent such vacancy shall be filled in the manner herein provided for the selection of such member to be so succeeded.

Accumulated funds

Sec. 3. In all such cities where a general pension fund for city employees has been accumulated but has not been put into operation at the effective date of this Act, the governing body of each such city shall segregate from said fund, the proportion which the total number of members of the Fire Department (eligible to said Pension Fund) bears to the entire number of all city employees, for whose benefit said fund was accumulated, and shall set aside such sum into the Firemen's Relief and Retirement Fund. Any such city shall appropriate not less than three (3) per centum of the annual Fire Department Pay Roll annually, and deposit same to the credit of the Firemen's Relief and Retirement Fund.

Contributions accepted from any source

Sec. 4. In addition to the apportionment from the City Treasurer, and in addition to the amounts deducted from salaries or paid by members of the fire department as is in this Act provided, the Board of Firemen's Relief and Retirement Fund Trustees of that city coming within the provisions of this Act shall have the power and authority to accept and receive for the use and benefit of said Firemen's Relief and Retirement Fund of that city, contributions of money from any source; rewards, fees, gifts, or emoluments in money that may be paid or given for, or on account of, any service of the fire department or any member thereof except when allowed to be retained by said member by resolution of the Board of Trustees, or when given to endow a medal or other permanent competitive or merit reward, and the earnings upon the deposit, loan, or investment of said Fund or any part thereof, all of which are hereby directed paid into said Fund to be used for the purposes for which said Fund is created.

Persons entitled to retirement and pension; amount

Sec. 5. On and after the 1st day of January, A. D. 1942, any person who has been duly appointed and enrolled, and who has served actively for a period of thirty (30) years in some regularly organized fire department in any city in this State now within or that may come within the provisions of this Act, in any rank, whether as wholly paid or part paid firemen shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city, a monthly pension equal to one-half of his average monthly salary not to exceed a maximum of One Hundred Dollars (\$100) per month. Such average monthly salary to be based on the monthly average of his salary for the five-year period preceding the date of such retirement. Any member who has heretofore been issued a certificate of retirement, shall be eligible to participate under the provisions of this Act.

Retirement on disability

Sec. 6. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city in the State, now within, or that may hereafter come within the provisions of this Act, shall become physically or mentally disabled while in and/or in consequence of the performance of his duty, said Board of Trustees may, upon his request, or without such request if it shall deem proper and for the good of the department, retire such person from active service either upon total or partial disability as the case may warrant and shall order that he be paid from such Fund (a) if for total disability, an amount

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

equal to one-half the average monthly salary of such fireman, not to exceed the sum of One Hundred Dollars (\$100) per month; such average monthly salary to be based on the monthly average of his salary for the five (5) year period, or so much thereof as he may have served, preceding the date of such retirement; or, (b) if the disability be less than total, then such sum as in the judgment of the Board of Trustees may be proper and commensurate with the degree of disability; provided further, that if and when such disability shall cease, such retirement or disability allowance shall be discontinued and such person shall be restored to active service at not less than the same salary he received at the time of his retirement for disability.

Certificates of disability or eligibility

Sec. 7. No person shall be retired either for total or temporary disability, except as herein provided, nor receive any allowance from said Fund, unless and until there shall have been filed with the Board of Trustees, certificates of his disability or eligibility signed and sworn to by said person and/or by the city physician, if there be one, or if none, then by any physician selected by the Board of Trustees. Said Board of Trustees, in its discretion, may require other or additional evidence of disability before ordering such retirement or payment aforesaid.

Statement of desire to participate in fund to be filed; deductions from salaries

Sec. 8. Within sixty (60) days after this Act takes effect each fully paid fireman in the employ of any such city enrolled in the fire department of any such city, who desires himself or his beneficiaries, as hereinafter named, to participate in such Fund or the benefits therefrom as by this Act provided, shall file with the secretary-treasurer or the Board of Firemen's Relief and Retirement Fund Trustees of that city a statement in writing under oath that he desires to participate in the benefits from such Fund, giving the name and relationship of his then actual dependents and shall therein authorize said city or the governing body thereof to deduct not less than one per centum nor more than three (3) per centum, the exact amount thereof to be determined by the vote of the fire department of which such person is a member, from his salary or compensation. Such money so deducted from salaries or compensation or agreed to be paid to become and form a part of the Fund herein designated and established as Firemen's Relief and Retirement Fund of that city. Failure or refusal to make and file the statement herein provided, or failure or refusal to allow deduction from salary or to pay the amount herein specified as herein provided on the part of any member shall forfeit his right to participate in any of the benefits from said Firemen's Relief and Retirement Fund. If any such member shall elect not to participate in such fund, he shall not be liable for any salary deduction nor to pay as herein provided.

Determination of amount of contributions by members

Sec. 9. Within thirty (30) days after this Act takes effect, the fire department of any city entitled by the provisions of this Act to participate in said Firemen's Relief and Retirement Fund shall determine by vote of the members thereof, the amount, within the limitations of this Act, of salary to be deducted, and the fire chief or other proper officer of such fire department shall so certify the result of said vote and determination to the Board of Firemen's Relief and Retirement

Fund Trustees for that city, which said certificate shall be authority for the governing body of such city to make such deductions from salaries and apply such deductions or payments to such Fund.

Death benefits to beneficiaries of deceased member

Sec. 10. If any member of any department, as herein defined, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever; or if while in service any member shall die from any cause growing out of and/or in consequence of the performance of his duty; or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate and shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, said Board of Trustees shall order paid a monthly allowance as follows: (a) to the widow, so long as she remains a widow and provided she shall have married such member prior to his retirement, a sum equal to one-third of the average monthly salary of the deceased at the time of his retirement on allowance or death; (b) to the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years; (c) to the dependent parent only in case no widow is entitled to allowance, the amount the widow would have received to be paid to but one parent and such parent to be determined by the Board of Trustees, and (d) in the event the widow dies after being entitled to allowance as herein provided, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each such dependent minor child; provided however, that the total allowance to be paid all beneficiaries or dependents as herein provided shall not exceed the monthly allowance to be paid the pensioner had he continued to live or be retired on allowance at the date of his death; and further provided, that if such amount be insufficient to pay full schedule of benefits as herein provided such benefits shall be prorated. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

Exemption of benefits from judicial process

Sec. 11. No portion of said Firemen's Relief and Retirement Fund shall, either before or after its order of disbursement by said Board of Trustees to such retired or disabled fireman or the widow, the guardian of any minor child or children, or the dependent parent of any such deceased, retired or disabled fireman be ever held, seized, taken, subjected to or detained or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, order, or decree, or any process, or proceedings whatsoever issued out of, or by, any Court of this State for the payment or satisfaction in whole or in part, of any debt, damage, claim, demand, or judgment against such fireman or his widow, the guardian of his minor child, or children, his dependent father or mother, nor shall said Fund nor any claim thereto be directly or indirectly assigned or transferred and any attempt to transfer or assign the same shall be void. Said Fund shall be sacredly held, kept and disbursed for the purposes provided by this Act and for no other purpose whatever.

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

**Certificate to fireman eligible to retirement or disability allowance;
continuance in service**

Sec. 12. Any fireman possessing the qualifications and being eligible for voluntary retirement, but who shall elect to continue in the service of such fire department, may apply to the Board of Trustees for a certificate and if found to possess such qualifications and be eligible for retirement as herein provided, the Board of Trustees shall issue to such fireman a certificate showing him to be entitled to retirement or disability allowance and upon his death such certificate shall be prima facie proof that his widow and/or dependents shall be entitled to their respective allowances without further proof except as to her or their relationship.

Medical examination of persons retired for disability

Sec. 13. The Board of Trustees, in its discretion, at any time, may cause any person retired for disability, under the provisions of this Act to appear and undergo a medical examination by the city physician or any other physician appointed or selected by the Board of Trustees for the purpose, and the result of such examination and report thereof by said physician shall be considered by said Board of Trustees in determining whether the relief in said case shall be continued, increased (if less than the maximum provided herein), decreased, or discontinued. Should any person receiving relief under the provisions of this Act, after due notice from said Board of Trustees to appear and be re-examined, unless excused by said Board, fail to appear or refuse to submit to re-examination, said Board of Trustees is authorized in its discretion, to reduce or entirely discontinue such relief.

Recall for duty in emergency

Sec. 14. Any retired fireman may be recalled to duty in case of great conflagration and shall perform such duty as the chief of the fire department may direct, but shall have no claim against such city for payment for such duty so performed.

Payments to dependents on conviction of member

Sec. 15. Whenever any person who shall have been granted an allowance hereunder shall have been convicted of a felony, then the Board of Trustees shall order the allowance so granted or allowed such person discontinued, and in lieu thereof, order paid to his wife, and/or dependent child, children or dependent parent, the amount herein provided to be paid such dependent or dependents in case of the death of the person so originally granted or entitled to allowance.

Computation of length of service

Sec. 16. In computing the time or period for retirement for length of service as herein provided, less than one year out of service or any time served in the armed forces of the Nation during war or National emergency shall be construed as continuous service, but if out more than one year and less than five (5) years, credit shall be given for prior service, but deduction made for the length of time out of service. If out of service more than five (5) years no previous service shall be counted, provided however, that if a fireman be out of service over five (5) years through no fault of his own and subsequently returns to the department, this period of time shall not be counted against him in so far as his retirement time is concerned. Any fireman joining any regularly organized fire department coming within the provisions of this Act after the effective date hereof shall not be entitled to benefits hereunder until he shall have served one year continuously.

Persons included

Sec. 17. All persons in cities of the class specified herein, who are being paid under the terms of any similar statute or ordinance, shall be included in this Act and shall continue to be paid in accord with the schedule stipulated herein.

Accounts

Sec. 18. The accounts of all firemen shall be kept separately, and if included in any Statute of the State of Texas creating a pension system, then the Board created herein shall stand in the place of any similar Board created by such Statute and shall receive the apportionment due them and shall pay the money allocated under the terms of this Act to the Board of Firemen's Relief and Retirement Trustees as herein provided.

City attorney to represent board of trustees in appeals

Sec. 19. It shall be and is hereby made the duty of the City Attorney, without additional compensation, to appear for and represent the Board of Trustees of that city in all cases of appeal by any claimant from the order or decision of such Board of Trustees.

Investment of surplus

Sec. 20. Whenever, in the opinion and judgment of said Board of Trustees, there is on hand in the said Firemen's Relief and Retirement Fund for that city, a surplus over and above a reasonably safe amount to take care of the current demands upon such Fund, such surplus or so much thereof as in the judgment of said Board is deemed proper, may be invested in Federal, State, County, or Municipal Bonds, and the interest therefrom and thereon shall be deposited into said Fund as a part thereof.

Action to recover benefits wrongfully obtained

Sec. 21. The Board of Trustees of any city as herein created and constituted shall have the power and authority to recover by civil action from any offending party or from his bondsmen, if any, any moneys paid out or obtained from said Fund through fraud, misrepresentation, defalcation, theft, embezzlement, or misapplication and may institute, conduct, and maintain such action in the name of said Board of Trustees for the use and benefit of such Fund.

Pro rata reduction of benefits on deficiency

Sec. 22. If, for any reason the Fund or Funds hereby made available for any purpose covered by this Act shall be insufficient to pay in full any allowance or disability benefits then all granted allowances, or disability benefits shall be proportionately reduced for such time as such deficiency exists.

Definitions

Sec. 23. Whenever used herein, the term "Board" or "Board of Trustees" shall be deemed to mean and refer to the Board of Firemen's Relief and Retirement Fund Trustees.

Whenever used herein, the term "firemen" or "fireman" shall be deemed to mean and include all active members of any regularly organized fire department of any such incorporated city.

The expression "Pension Fund," as used herein, shall mean the Firemen's Relief and Retirement Fund.

The expression "Pension Board," as used in this Act, means the Firemen's Relief and Retirement Board of each such city.

All members of the Fire Department of any such city shall participate in said Pension Fund, and shall be subject to all of the provisions of

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

this Act. It is the intention hereof to include everyone who is designated by any such city as a member of said Fire Department, regardless of the particular duty or duties performed by such person.

The expression "member" and "members," as used in this Act, mean members of any such Fire Department who are entitled to participate in said Pension Fund as above set forth, that is, the entire personnel of any such Fire Department.

Whenever used herein, the term "active firemen," or "active members" shall be deemed to mean and include all paid firemen who receive regular salaries as firemen.

Partial invalidity

Sec. 24. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof and all other provisions shall remain valid and unaffected by an invalid portion, if any.

Effective date of act

Sec. 25. The provisions of this Act shall take effect on and be in full force and effect from and after January 1, 1942. Acts 1941, 47th Leg., p. 832, ch. 514.

Filed without the Governor's signature,
June 21, 1941.

Effective Jan. 1, 1942.

Section 26 of the Act of 1941 declared an emergency and suspended the constitutional rule requiring bills to be read on three separate days in each house.

Art. 6243f. Pensions for policemen, firemen and fire alarm operators in cities having population of 200,000 to 293,000

Board of trustees

Section 1. In all incorporated cities containing more than two hundred thousand (200,000) inhabitants and less than two hundred and ninety-three thousand (293,000) inhabitants according to the last preceding Federal Census, and all future Federal Census, having a fully paid Fire and Police Department, there is created hereby a Board to consist of seven (7) members, as follows: The Mayor, two (2) Aldermen, Councilmen or Commissioners, each to serve on this Board for the term of office to which they were elected, two (2) active Firemen, below the grade of Captain, to be selected by the majority vote of the members of the Fire Department by secret ballot, which two (2) members shall be appointed by the governing body of the said City, one (1) for a term of two (2) years and the other for a term of four (4) years, and two (2) active Policemen, below the grade of Captain, to be selected by the majority vote of the members of the Police Department, by secret ballot, which two (2) members shall be appointed by the governing body of the said City, one for a term of two (2) years and the other for a term of four (4) years. All members from the Fire Department and Police Department shall be elected by the contributors to the Fund, and shall serve until their successors are elected and qualified, and their successors shall each be elected and appointed to serve for a term of four (4) years. The appointees and their successors shall constitute the Board of Trustees of the Firemen, Policemen and Fire Alarm Operators' Pension Fund, to provide for the disbursement of same, and to designate the beneficiaries thereof. The Board shall be known as the Board of Firemen, Policemen, and Fire Alarm Operators' Pension Fund Trustees of ———, Texas.

Powers and duties of board

Sec. 2. The Board shall organize by choosing one (1) member as Chairman, and one (1) member as Secretary, which Board shall control and administer the Fund and shall order payments therefrom in pursuance of the provisions of this Act. It shall report annually to the governing body of such City, the condition of the Fund and the receipts and disbursements on account of same, with a complete list of the beneficiaries of the Fund, and the amounts paid them. The Board shall have the power and authority, by a majority vote, to reduce the percentages stipulated in this Act which deals with the disabilities or with awards granted to beneficiaries. The reduction shall be based on the degrees of disability and circumstances surrounding the case. The Board shall have the complete authority and power to administer all of the provisions of this Act and any implied powers under this Act.

Membership

Sec. 3. Each fully paid Fireman, Policeman, and Fire Alarm Operator, in the employ of such City, who desires himself or his beneficiaries to participate in said Fund, shall file a written statement with the Board of his desires to participate in said Fund, and authorize said City to deduct not less than five percent (5%) nor more than ten percent (10%) of his wages each month to form a part of the Fund known as The Firemen, Policemen, and Fire Alarm Operators' Fund.

Contributions to fund; deductions from wages

Sec. 4. There shall be deducted for such Fund from the wages of each Fireman, Policeman, and Fire Alarm Operator in the employment of such City, upon a vote of the majority of the members of the said Board of Trustees, not less than five percent (5%) nor more than ten percent (10%) of the wages earned by such employees when he has filed application therefor. Every contributor to said Fund shall be required to pay into the Fund on the base pay of a private and no more. Any donations made to said Fund and rewards received by any members of either of the departments and all funds received from any source for such Fund, shall be deposited in like manner to such Fund.

Meetings; disbursements; records

Sec. 5. The Board shall hold regular monthly meetings and other meetings upon call of its Chairman, or written demand of a majority of the members. It shall issue orders signed by the Chairman and Secretary, to the persons entitled thereto of the amounts of money ordered paid to such persons from such Fund by said Board, which order shall state for what purposes such payment is to be made. It shall keep a record of the proceedings which record shall be of public record; it shall at each monthly meeting send to the City Treasurer a written list of persons entitled to the payment from the Fund, stating the amount of such payment and for what granted, which list shall be certified and signed by the Chairman and Secretary of such Board attested under oath. The Treasurer shall enter a copy of said list upon the book to be kept for that purpose, which book shall be known as The Record of the Firemen, Policemen and Fire Alarm Operators' Pension Fund, and the said Board shall direct payment of the amounts herein to the persons entitled thereto out of said Fund. No money of said Fund shall be disbursed for any purpose without a majority vote of the Board, which shall be a "no" and "yes" vote entered upon the proceedings of the Board.

Custody of fund

Sec. 6. The Treasurer of said City shall be Treasurer of said Fund. All money for said Fund shall be paid over to and received by the Treasurer for the use of said Fund, and the duties thus imposed upon such Treasurer shall be additional duties for which he shall be liable under his oath and bond as such City Treasurer, but he shall receive no compensation therefor.

Who may share in fund

Sec. 7. Any person who, at the establishment of said Fund or thereafter, shall have been duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any such City and who shall have signed an application for participation in said Fund and has allowed deductions from his salary under any former law and is in good standing; and those who have filed written application within forty-five (45) days after the organization of such Board, or who shall file his application within forty-five (45) days after becoming a member of such departments, having served the probationary period, if any, and who shall have allowed such deductions from his salary; and any person heretofore duly appointed or enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any such City, who is not now a member of the Pension Fund, may file his application with the Board within forty-five (45) days after this Act becomes effective and apply for participation therein; but such applicant shall pass a physical examination of the same character that is required for original admission, into the respective department in which he serves, and shall pay into such Fund a sum of money equal to the amount of salary deductions he would have paid had he joined immediately upon becoming eligible to participate in the benefits of said Fund; as well as the beneficiaries hereinafter named shall be entitled to participate in said Fund.

Retirement pension

Sec. 8. Whenever any member of said Departments shall have contributed a portion of his salary and shall have served twenty (20) years, in either of said Departments he may be issued a Certificate of Retirement, which Certificate shall entitle holder to full benefits hereunder provided when presented as application for retirement. No member shall ever receive any award from this Fund for retirement until he has at least served twenty (20) years in either or all of the Departments. A member retiring under the provision of this Act shall receive one-half ($\frac{1}{2}$) of the salary received by him at the time of retirement; provided, however, that in no instance shall the monthly pension allowance awarded him be in excess of one-half ($\frac{1}{2}$) of the current base pay of a private per month. A member under the age of fifty-five (55) years shall not be entitled to a Certificate of Retirement as a matter of right for service of twenty (20) years, but the Board shall have a hearing on the application and if it appears that the applicant is reasonably able to perform his duties, the Certificate shall not be granted. Any member reaching the age of sixty-five (65) years and having served twenty (20) years in either or all of the Departments, and who has not been retired from such Department, shall be summoned before the Board for the purpose of determining

Certificate of retirement

Sec. 9. When any member of the Fire Department, Police Department or Fire Alarm Operators' Department has been issued a Certificate of Retirement under the provisions of this Act he shall be entitled, after

having received said Certificate, to one-half ($\frac{1}{2}$) of the base pay of a private per month. The said Certificate shall further state that in case of death, or in case he becomes permanently disabled, he shall be and his beneficiaries shall be entitled to the same awards and rights to participate in the provisions of this Act and of any other Act heretofore or hereafter made, as well as any of the provisions of the City Charter heretofore or hereafter made as he would have had before the said Board issued his Certificate of Retirement. The said Certificate shall be attested under seal and signature of the Chairman of the Pension Board of Firemen, Policemen, and Fire Alarm Operators and attested by the Secretary.

Retirement when disabled

Sec. 10. When any member of the Fire Department, Police Department, and Fire Alarm Operators' Department of the City and who is contributing to said Fund, as herein provided, shall become so permanently disabled through injury or disease contracted directly in the line of duty, as to incapacitate him from the performance of his duties, and shall make written application subject to medical examination for such injuries or disease, he shall be retired from the service and be entitled to receive from the said Fund one-half ($\frac{1}{2}$) of the base pay of a private per month, which base pay of a private shall be computed on the basis of the current payroll. In no case shall a disability claim be acknowledged or award made hereunder until disability has been proved to be continuous and wholly incapacitating for a period of not less than ninety (90) days.

Death benefits to widow and children

Sec. 11. In case of the death before or after retirement of any member of the Fire, Police and Fire Alarm Operators' Departments of any City from disease contracted or injury received directly while in line of duty, and who at the time of his death, or retirement was a contributor to the said Fund, leaving a widow, child or children under seventeen (17) years of age, the widow and such child or children shall be entitled to receive from the said Fund an amount not to exceed one-half ($\frac{1}{2}$) of the current base pay of a private per month; one-half ($\frac{1}{2}$) of the widow's amount in the aggregate shall go to the children under seventeen (17) years of age and one-half ($\frac{1}{2}$) for the widow. No child resulting from any marriage subsequent to the date of the retirement of said member, shall be entitled to a pension under this Act. In case there are no children, the widow shall receive one-third ($\frac{1}{3}$) of the current base pay of a private per month. The one-fourth ($\frac{1}{4}$) award to the children shall be paid by the Board to the legal guardian of the children. In no instance shall the amount received by the widow, child or children, exceed a pension allowance of one-half ($\frac{1}{2}$) of the current base pay of a private per month.

Death benefits to children under 17; remarriage of widow; marriage after retirement

Sec. 12. In case of the death before or after the retirement of any member of the Fire, Police or Fire Alarm Operators' Departments of any City operating under this Act, from disease contracted or injury directly received while in line of duty and who at the time of death was a contributor to the said Fund, leaving the widow and more than one child under the age of seventeen (17) years, such children shall receive jointly from the Fund, one-half ($\frac{1}{2}$) of the current base pay of a private per month; but if only one child is left, such child shall receive from the Fund one-fourth ($\frac{1}{4}$) of the current base pay of a private per month.

No child shall be paid more than one-fourth ($\frac{1}{4}$) of the current base pay of a private per month. When any child who is a beneficiary under this Act, shall reach the age of seventeen (17) years, then such child shall no longer participate in the division of said wages of said deceased, but the benefits shall be paid to the remaining child or children, if any, under seventeen (17) years of age. Upon the remarriage of the widow, either statutory or common law, or the marriage of any child granted such pension, the pension shall cease. No widow resulting from any marriage subsequent to the date of the retirement of said member, shall be entitled to a pension under this Act.

Death benefits to dependent father and mother; investigations

Sec. 13. If any member of the Fire, Police and Fire Alarm Operators' Departments dies before or after retirement, from injury received, or disease contracted directly in line of duty, who was a contributor to said Fund and entitled to participate in said Fund himself, leaves no widow or child, but leaves surviving him a father and mother wholly dependent upon said pension for support, such dependent father and mother shall be entitled to receive one-third ($\frac{1}{3}$) of the base pay of a private per month, to be equally divided between said father and mother, so long as they are wholly dependent. Where there is one (1) dependent, either father or mother, the Board shall grant the surviving dependent one-fourth ($\frac{1}{4}$) of the current base pay of a private per month. The Board shall have authority to make a thorough investigation, determine the facts as to the dependency of the said parties and each of them, as to how long the same exists and may, at any time, upon the request of any beneficiary or any contributor to such Fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper and the finding of any Board in regard to any matters, as well as to all pensions granted under this Act, shall be final upon all parties seeking a pension until such award of the Trustees shall have been set aside or revoked by a Court of competent jurisdiction.

Applications; hearings

Sec. 14. The Board shall consider all cases for retirement and pension of the members of the Fire, Police and Fire Alarm Operators' Departments rendered necessary or expedient under the provisions of this Act, and all applications of pensions by widow, the children and dependent relatives, and the said Trustees shall give notice to persons asking for a pension to appear before said Board and offer such sworn evidence as he, or they, may desire. Any person who is a member of said Departments and who is a contributor to the said Fund may appear either in person, or by attorney, and contest the application for participation in said Fund by any person claiming to be entitled to participate therein, and may offer testimony in support of such contest. The Chairman of said Board shall have the authority, to issue process for witnesses and administer oaths to said witnesses and to examine any witness as to any matter affecting retirement or a pension under the provisions of this Act. Such process for witnesses shall be served by any member of the Police, Fire or Fire Alarm Operators' Departments and upon the failure of any witness to attend and testify, he or she may be compelled to attend and testify as in any judicial proceeding; according to practice in a Justice Court.

Medical examination

Sec. 15. Said Board may cause any person receiving any pension under the provisions of this Act, who has served less than twenty (20) years to appear and undergo medical examination by either the City Physician or some reputable physician selected by the Board; as a result of which the Board shall determine whether the relief in said case shall be continued, increased, decreased or discontinued. In making the findings the Board may change any percentage stipulated in this Act, by reducing the same to one-twentieth (1/20) for each year served not to exceed one-half (1/2) of the current base pay of a private; if any person receiving benefits under the provisions of this Act, after due notice, fails to appear and undergo such examination, the Board may reduce or entirely discontinue such benefits.

Public funds; parking meter funds

Sec. 16. Funds are hereby authorized to be paid out of the General Fund or the Special Fund of any such incorporated City; and, money collected by such Cities from the use of parking meters on the streets shall be used for the purpose of carrying out the provisions of this Act. Nothing herein is to be construed as denying any City any right which it may have at this time to raise or procure money for the benefit of said pension fund, which might be in addition to the method or methods herein provided.

Reserve retirement fund

Sec. 17. At the end of the fiscal year all money paid into the Fund that remains as a surplus over and above the orders for payments as issued by the Board, shall be paid into the Reserve Retirement Fund to accumulate at interest for the benefit of the Reserve Fund needs. All such funds as may accumulate in this Special Retirement Reserve shall be invested at regular intervals or at such times as the accumulations justify, in accordance with the City Charter for investment of the Sinking Funds of any such City. The Board shall have the power to make these investments for the sole benefit of this Retirement Reserve Fund. The investment shall remain in the custody of the Treasurer in the same manner as provided for the custody of the funds. The Board shall have the power and authority, by a majority vote of its members, to disburse the moneys accumulated as the retirement needs arise.

Awards exempt

Sec. 18. No amount awarded to any person under the provisions of this Act shall be liable for the debts of any such person; shall not be assignable; and shall be exempt from garnishment or other legal process.

Act as of essence of employment contract

Sec. 19. This Act shall be of the essence of the contract of the employment and appointment of the Firemen, Policemen and Fire Alarm Operators by Cities of this class; and, the deferred payment is a part of the compensation for services rendered to the City.

Vested rights

Sec. 20. The right is vested in the persons specified in this Act to participate in such Fund and to receive the payments in strict accord herewith; and the means of its enforcement shall never be impaired nor be denied.

Deficiency, payment by city

Sec. 21. The Cities included in this class shall pay the deficiency, if any, between the money procured under the terms of this Act and the amount of the deferred payments prescribed herein.

Persons included

Sec. 22. All persons in Cities of the class specified herein, who are being paid under the terms of any similar statute or ordinance, shall be included in this Act and shall continue to be paid in accord with the schedule stipulated herein.

Accounts

Sec. 23. The accounts of the Firemen, Policemen and Fire Alarm Operators shall be kept separately, and if any of these classes of employees are included in any statute of the State of Texas creating a pension system, then the Board created herein shall stand in the place and of any similar Board created by such statute and shall receive the apportionment due the class of employees mentioned, and shall pay the money allocated, under the terms of this Act to such class, but the other classes specified herein shall not participate in any such funds.

Partial invalidity

Sec. 25. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act and the Legislature hereby declared that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional. Acts 1941, 47th Leg., p. 134, ch. 105.

Filed without the Governor's signature,
April 12, 1941.

Effective April 22, 1941.

Section 24 of the Act of 1941 repealed all
conflicting laws and parts of laws.

Section 26 of the Act of 1941 declared
an emergency and provided that the Act
should take effect from and after its
passage.

3. OLD AGE ASSISTANCE

Art. 6243—1. Repealed. Acts 1941, 47th Leg., p. 914, ch. 562, § 45.
Eff. July 2, 1941

Arts. 6243—3 to 6243—21. Repealed. Acts 1941, 47th Leg., p. 914, ch.
562, § 44. Eff. July 2, 1941

Prior to repeal, articles 6243—5 and
6243—6 were amended by Acts 1939, 46th
Leg., p. 541. Such amendment was re-
pealed by Acts 1941, 47th Leg., p. 914, ch.
562, § 46.

Allocation and appropriations to Old Age
Assistance Fund, see article 7083a.

Limitation on monthly expenditures for
old age assistance, see article 7083a.

TITLE 110—PRINCIPAL AND SURETY

Art. 6246. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg.,
p. 201, § 1)

See Rule 32, Vernon's Texas Rules of
Civil Procedure.

Art. 6251. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg.,
p. 201, § 1)

See Rule 31, Vernon's Texas Rules of
Civil Procedure.

TITLE 111—QUO WARRANTO

Arts. 6254—6256. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 779-781, Vernon's Texas Rules of Civil Procedure.

Art. 6258. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 782, Vernon's Texas Rules of Civil Procedure.

TITLE 112—RAILROADS

CHAPTER EIGHT—RESTRICTIONS, DUTIES AND LIABILITIES

Art. 6371. 6564, 4507, 4232 Bell; steam or air whistle or siren; sounding or blowing

A bell of at least thirty (30) pounds weight and a steam whistle, air whistle or air siren shall be placed on such locomotive engine, and the steam whistle, the air whistle or air siren shall be sounded and the bell rung at a distance of at least eighty (80) rods from the place where the railroad shall cross any public road or street, and such bell shall be kept ringing until it shall have crossed such public road, or stopped; and each locomotive engine approaching a place where two lines of railway cross each other shall, before reaching such railway crossing be brought to a full stop; and the corporation operating such railways shall be liable for all damages which shall be sustained by any person by reason of any such neglect; the full stop at such crossing may be discontinued when the railroads crossing each other shall put into full operation at such crossing an interlocking switch and signal apparatus or shall have a flagman in attendance at such crossing. As amended Acts 1941, 47th Leg., p. 349, ch. 189, § 1.

Approved May 2, 1941.

Effective May 2, 1941.

Section 3 of the amendatory Act of 1941 repealed all conflicting laws and parts of

laws. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6377. 6570, 4508, 4233 Forming passenger trains

In forming a passenger train, baggage or freight, or merchandise, or lumber cars shall not be placed in rear of passenger cars; and if they or any of them shall be so placed and any accident happen to life or limb, the officer or agent who so directed or knowingly suffered such arrangement and the conductor and engineer of the train shall each be held guilty of intentionally causing the injury, and be punished accordingly. Provided, however, that this Article shall not apply where railroad trains are carrying only personnel and equipment in connection with military or naval movements. As amended, Acts 1941, 47th Leg., p. 1405, ch. 638, § 1.

Approved and effective July 23, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of

laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

2. REGULATION OF VEHICLES

Art.

6675a—8c. Diesel motors, vehicles propelled by; fee; license receipts to show type of motor [New].

6675a—13b. Registration for branch office [New].

Art.

6675a—16. Agreements with other states regarding exemption from registration fees; punishment for violation [New].

6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports [New].

[1A. CONSTRUCTION AND MAINTENANCE]

Art. 6674q—1. State assumption of county and road district highway bonds

It is expressly recognized and declared that all highways now or heretofore constituting a part of the system of State Highways and that all roads not constituting a part of such system, which have been constructed in whole or in part from the proceeds of bonds, warrants, or other evidence of indebtedness issued by counties of the State of Texas, or by defined road districts of the State of Texas, under the laws authorizing the same, have been and are and will continue to be beneficial to the State of Texas at large, and have contributed to the general welfare, settlement, and development of the entire State, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon the counties and defined road districts and their inhabitants, and both a legal and moral obligation rests upon the State to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the State, and have paid expenses which were and are properly State expenses, all for the use and benefit of the State, and to the extent provided herein that the State provide funds for the further construction of roads not designated as a part of the State Highway System.

Having heretofore, by an Act of the Legislature (Chapter 13, Acts of the Third Called Session of the Forty-second Legislature in 1932), taken over, acquired, and purchased the interest and equities of the various counties and defined road districts in and to the highways constituting a part of the system of then designated State Highways, it is further declared to be the policy of the State to take over, acquire, purchase, and retain the interest and equities of the various counties and defined road districts in and to the highways, not previously taken over, acquired, and purchased and constituting on January 2, 1939, a part of the system of designated State Highways, and to acquire and purchase the interest and equities of the various counties and defined road districts in and to the roads not constituting a part of the system of designated State Highways as of January 2, 1939, and under the provisions of this Act to acquire such interest and equities in such roads hereafter to be constructed with money furnished by the State, and to reimburse said counties and districts therefor, and to provide for the acquisition, establishment, construction, extension and development of the system of designated State Highways of Texas, from some source of income other than the revenues derived from ad valorem taxes, it being expressly provided

herein that the State is not assuming, and has not assumed, any obligation for the construction, extension, and development of any of the highways thus acquired and purchased which do not constitute a part of the system of designated State Highways. And it is hereby determined that the further provisions of this Act constitute fair, just, and equitable compensation, repayment, and reimbursement to said counties and defined districts and for their aid and assistance to the State in the construction of State Highways and for the construction of said roads which are ancillary to, but do not constitute a part of said system of State Highways, and fully discharges the legally implied obligations of the State to compensate, repay, and reimburse the agencies of the State for expenses incurred at the instance and solicitation of the State, as well as for expenses incurred for the benefit of the State, and fully discharges the State's legally implied obligation to such counties and defined road districts to provide additional funds for the further construction of roads not designated as a part of the State Highway System. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Approved and effective Sept. 19, 1941.

Section 12 of Acts of 1932, 42nd Leg., 3rd C.S. p. 15, ch. 13, added by Acts 1939, 46th Leg., p. 582, § 1 was amended by Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1, so as to make an appropriation out of the County and Road District Highway Fund, not otherwise appropriated for the fiscal year ending Aug. 31, 1942, for additional employees and expenses.

Section 2 of the amendatory Act of 1941 read as follows: "This Act shall be cumulative of all other valid laws, but in the event of a conflict between any provision of this Act and any other Act, either general or special, the provisions of this Act shall prevail."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6674q—2. Definitions

By the expression "defined road districts" or "road districts" or "districts" used in this Act, is meant any defined road district of the State or any Justice or Commissioners Precinct acting as a road district or any road district located in one or more than one county.

By the expression "roads" or "road" as used in this Act, is meant roads, road beds, bridges and culverts.

By the expression "highways," "State Highways" and "State designated Highways" are meant roads which prior to January 2, 1939, had become a part of the system of designated State Highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation or abandonment and including roads concerning which the State Highway Commission had prior to January 2, 1939, indicated its intention to designate, evidencing such intention in the official records or files.

All roads which prior to January 2, 1941, had not become a part of the system of State designated Highways, for convenience in this Act, are called "lateral roads."

The term "Board" as used in this Act, when the contrary is not clearly indicated, shall mean the "Board of County and District Road Indebtedness."

The term "fund" as used in this Act, when the contrary is not clearly indicated, shall mean the "County and Road District Highway Fund."

The expression "eligible obligations" as used in this Act shall mean obligations, the proceeds of which were actually expended on State designated highways. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Art. 6674q—4. Improvements under control of State Highway Department

All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department. No further improvement of said system shall be made with the aid of or with any moneys furnished by the counties except the acquisition of right of ways which may be furnished by the counties, their subdivisions or defined road districts. But this shall in nowise affect the carrying out of any binding contracts now existing between the State Highway Department and the Commissioners Court of any county, for such county, or for any defined road district. In the development of the System of State Highways and the maintenance thereof, the State Highway Commission shall from funds available to the State Highway Department, provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction, in cooperation with the Federal Government to the extent of Federal Aid to the State, of highways of durable type of the greatest public necessity.

(c) For the construction of highways perfecting and extending a correlated system of State Highways, independently from State Funds. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Art. 6674q—5. Appropriations from State Highway Fund

All moneys now or hereafter deposited in the State Treasury to the credit of the "State Highway Fund," including all Federal Aid money deposited to the credit of said Fund under the term of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said System of State Highways by the State Highway Department. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Art. 6674q—6. Allocation of funds from gasoline tax

Each month the Comptroller of Public Accounts, after computing and ascertaining the maximum amount of refunds that may be due by the State on the business of selling gasoline, as provided in Section 17, Chapter 88, General Laws, Acts of the Second Called Session of the Forty-first Legislature, as amended by Chapter 104, General Laws, Acts of the Regular Session of the Forty-second Legislature,¹ shall deduct same from the total occupation or excise tax paid on the business of selling gasoline, as imposed by Section 17, Chapter 98, General Laws, Acts of the Regular Session of the Forty-second Legislature, as amended,² and beginning with said taxes collected on or after October 1, 1932, shall, after deducting the said maximum amount of refunds, allocate and place the remainder of said occupation or excise tax on the business of selling gasoline, in the State Treasury as provided by law, in the proportion as follows: One-fourth of such occupation or excise tax shall go to, and be placed to the credit of the Available Free School Fund; one-fourth of the same shall go to, and be placed to the credit of a fund to be known as the "County and Road District Highway Fund," subject to the provisions and limitations of Section 3 of this Act;³ the remainder of such occupation or excise tax shall go to, and be placed to the credit of the State Highway Fund, for the construction and maintenance of the public roads

of the State, constituting and comprising the system of State Highways of Texas, as designated by the State Highway Commission of Texas. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

1 Article 7065n, subds. 3, 5.

2 Articles 7065a, 7065e, 7065f, 7065h, 7065j;

Vernon's Rev.Pen.Code, art. 141c.

3 Article 6674q—4.

Art. 6674q—7. Administrative provisions

(a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, in so far as amounts of same were issued for and the proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated State Highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways or any road that heretofore had constituted a part of said System and which has been or may be changed, relocated or abandoned, whether said indebtedness is now evidenced by the obligation originally issued or by refunding obligations or both, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund, subject to the provisions of this Act; provided, that such indebtedness the proceeds of which have been expended in the construction of roads which have been designated as a part of the State Highway System after September 17, 1932, and prior to January 2, 1939, shall participate in said County and Road District Highway Fund as of the date of the designation of said road as a part of the State system; provided further that any participation in said fund by any county or defined road district shall be less the amount of money which it was required to accumulate in the sinking fund under the provisions of the statutes and order of the Commissioners Court authorizing the issue of said eligible obligations, and the tax levy authorized at the time of issuance thereof for the time such obligations have run or may have run regardless of whether the full amount of said funds are, or may be, actually on hand and to the credit of the sinking funds of such county or defined road district. It is provided expressly in this connection that the term "sinking funds" shall include only those funds required under the law for the retirement of principal and interest and shall not include any excess or surplus which may have been accumulated by any county or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as hereinafter provided. Provided, further, that no State funds created or provided for by the terms of this Act shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations.

In the event that State Highway Commission has, on a date prior to January 2, 1939, recorded a conditional designation and all conditions precedent to the official designation thereof have been met or performed in a manner satisfactory and acceptable to the Highway Commission, and the Highway Commission officially enters of record its acceptance and designation of such road as a part of the State Highway System for maintenance then the provisions of this Act shall apply as if the said roads had been actually designated prior to January 2, 1939.

All bonds, warrants or other legal evidences of indebtedness outstanding as of the date of the designation hereinafter referred to, and issued by a county or defined road district prior to January 2, 1939, in so far

as amounts of same were issued and the proceeds actually expended in the construction of roads that have been officially designated as a part of the State Highway System subsequent to January 2, 1939, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund as of the date of designation of said road as a part of the State Highway System. The amount of such bonds, warrants, or other legal evidences of indebtedness outstanding as of the date of designation of such road as a part of the State Highway System, shall be eligible for participation in the same manner as provided for other bonds under this Act.

In addition to and regardless of the other provisions of this Act, all bonds, warrants or other legal evidences of indebtedness voted, or issued without being voted by a county, road district or defined road district prior to January 2, 1939, in so far as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are now a part of the designated System of State Highways or which have since, or which may hereafter become a part of the designated System of State Highways shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund the same as provided for other bonds under this Act and as of the date of the designation of said road as a part of the State Highway System; and where such bonds or warrants were voted prior to January 2, 1939, and prior to the designation of the road as a State highway and which have not yet been issued or expended, the county or defined road district may issue such bonds or warrants or other legal evidence of indebtedness and place the proceeds in escrow with the State Highway Commission for the construction of such road under plans, contracts, specifications and supervision of the State Highway Department and when so expended the bonds, warrants, or other evidences of indebtedness shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds had been issued and expended prior to January 2, 1939. Provided, further, that all such bonds or warrants to be hereafter sold pursuant to this paragraph by a county or defined road district which will be eligible for participation in the County and Road District Highway Fund under the provisions of this Section shall be sold subject to the approval of the Board of County and District Road Indebtedness, as to amounts, maturities and interest rates.

(b) The Board of County and District Road Indebtedness, created by Chapter 13, Acts of the Third Called Session of the Forty-second Legislature,¹ consisting of the State Highway Engineer, State Comptroller of Public Accounts, and State Treasurer, is hereby continued and charged with the duties of administering this Act. The State Comptroller of Public Accounts shall be the Secretary of said Board and said Board shall elect its own chairman from its membership. The Board shall adopt its own rules consistent with this Act for the proceedings held hereunder, and shall have authority to call to its assistance in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund any official or employee of this State, and shall avail itself of all data and information assembled in the administration of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature,¹ and said Board is hereby authorized to call on any County Judge or any County or State official or employee, and shall have full access to all the records, books, and public documents for the purpose of obtaining any information which it may deem necessary and pertinent to its inquiry in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund.

(c) It shall be the duty of the Board of County and District Road Indebtedness, from the data and information furnished by the County Judges of the State, and by the Chairman of the State Highway Commission and by the State Comptroller of Public Accounts, and from such further investigation as said Board may deem necessary to ascertain and determine the amount of indebtedness eligible under the provisions of this Section of this Act to participate in the moneys coming into said County and Road District Highway Fund. Whenever in the case of any particular issue of obligations the proceeds thereof shall have been expended partly on designated State Highways, or highways heretofore constituting designated State Highways, and partly on roads which never have been designated State Highways, said Board shall ascertain and determine the amount of said obligations, the proceeds of which were actually expended on State Highways or on roads heretofore constituting State Highways, and said obligations to said amount and extent shall be eligible for participation in the moneys coming into the County and Road District Highway Fund, and said ascertainment and determination shall be certified to the County Judge by said Board and all of the unmatured outstanding obligations of said issue shall ratably have the benefit of said participation in said moneys. The ascertainment and determination by the Board of County and District Road Indebtedness, after reasonable notice and hearing, of the amount of any county or defined road district obligations eligible under the provisions of this Act to participate in any moneys coming into the County and Road District Highway Fund, or as to the amount of any obligations the proceeds of which were actually expended on State Highways, or on roads heretofore constituting State Highways, shall be final and conclusive and shall not be subject to review in any other tribunal. But said Board of County and District Road Indebtedness shall have the right at any time to correct any errors or mistakes it may have made.

(d) The Board shall make and keep a record of all county and defined road district eligible obligations, issue by issue, and a book shall be prepared and kept in which shall be recorded all eligible issues, maturity dates of principal and interest, rates of interest, and places of payment for each county and each defined road district; each issue and the date pertaining to same shall be listed separately. The Board shall keep a record of all vouchers issued.

(e) The State Treasurer shall keep a separate account for each county and defined road district of any moneys received for the credit of said county or defined road district pursuant to the provisions hereof.

(f) A list shall be compiled by the Board of County and District Road Indebtedness showing the amount ascertained and determined by it to be eligible indebtedness of each county and defined road district, and a copy thereof shall be furnished to each County Judge in this State.

(g) From year to year, and not later than July 15th of each year, said Board shall ascertain and determine the sum necessary to pay the interest, principal, and sinking fund requirements on all eligible obligations for the next succeeding calendar year and shall estimate the sum which shall be applicable to the same, and shall, not later than August 1st of each year, give notice to the County Judge of each county of the estimated amount available for application to said interest, principal, and sinking fund requirements. In the event the amount so estimated to be applied to the payment of eligible obligations for any county or defined road district is sufficient to meet all maturing interest, principal, and sinking fund requirements, the Commissioners Court may dispense with the collection of ad valorem levies for such calendar and/or fiscal year

for such interest, principal, or sinking fund requirements. In the event the amount of payments so estimated to be applied is not sufficient to meet the maturing interest, principal, and sinking fund requirements, the County Commissioners Court shall collect from taxes on the property in said respective counties and defined road districts, an amount of money equal to the difference between the amount of such requirements and the amount available for application. In this connection it is declared to be the intent of the Legislature that all contractual duties and obligations which may exist between any county and/or defined road district and the owner or holder of the present outstanding indebtedness of any county and/or defined road district, shall not be in any manner disturbed or impaired and shall remain inviolate. Any tax heretofore provided to be levied in support of any present outstanding indebtedness affected by the provisions of this Act shall continue to be assessed, levied, and collected as originally provided; however, the collection of said tax may, by order of the Commissioners Court, be lessened and reduced by the payments made, and to be made, thereon and in behalf of such indebtedness out of the County and Road District Highway Fund, as herein provided, and as succeeding Legislatures shall, by appropriation make provisions therefor. The entire proceeds of all taxes collected on any eligible issue of bonds shall be remitted by the County Treasurer of each county collecting the same, together with a statement of the amount collected, to the State Treasurer and shall be held by the State Treasurer as ex-officio Treasurer of said county or defined road district for the benefit of the county or defined road district remitting the same, and be disbursed to meet the interest, principal, and sinking fund requirements on the eligible obligations of said county or defined road district.

In the event the amount of funds available to be applied to meet the maturing interest, principal, and sinking fund requirements in any calendar or fiscal year is not sufficient to satisfy such requirements, the moneys available in the County and Road District Highway Fund, as estimated and determined by the Board, shall be, for that calendar or fiscal year first applied to the payment and satisfaction of interest maturing on all eligible obligations during the particular calendar and/or fiscal year, and this payment is to be made ratably upon the interest on eligible obligations of the various counties or defined road districts; and if there is more of said moneys available than necessary to pay all of said interest, then such balance over the required interest payment for such year shall be distributed ratably to each issue of eligible obligations on the basis of the principal of eligible obligations and sinking fund requirements thereon maturing each year.

(h) On September 1st of each year after the Board has paid off and discharged all eligible obligations maturing during the preceding fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon, out of the County and Road District Highway Fund, any surplus remaining in said fund over and above Three Million Dollars (\$3,000,000) shall be set aside and credited by the State Treasurer to the respective funds hereinafter named as follows: One-half of said surplus shall be transferred to the State Highway Fund and one-half shall be credited to an account to be known as the "Lateral Road Account" to be distributed and expended as hereinafter provided.

As soon as practicable after the passage of this Act and before the Lateral Road Account is allocated to the counties, the Board shall determine the amount each county and each defined road district has paid since January 1, 1933, under the provisions of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, as amended,¹ to-

ward its debt service upon bonds which at the time of payment were eligible to participate in the County and Road District Highway Fund, and shall deduct from the amount paid by such county or defined road district any and all advancements made by the Board to such county or defined road district in adjusting, refunding, or prepaying the eligible obligations of such county or defined road district, and after making such deductions, the Board shall credit the Lateral Road Account of each county or defined road district with the net balance contributed by such county or road district toward the retirement of said eligible obligations and said funds so credited to any county or defined road district may be used or expended by the counties and defined road district for the purposes authorized in this section.

Not later than September 15th of each year the said Board shall ascertain the exact amount of money which has been allocated to the said Lateral Road Account for such fiscal year and which at that time is available. The Board shall allocate to each county its proportionate part of the moneys in said Lateral Road Account, which allocation shall be determined in the following manner:

(1) One-tenth of the money in said Account shall be allocated upon the basis of area, determined by the ratio of the area of the county to the total area of the State.

(2) Two-tenths of the moneys in said Account shall be allocated on the basis of population according to the last preceding Federal Census, determined by the ratio of the population of the county to the total population of the State.

(3) Three-tenths of the moneys in said Account shall be allocated upon the basis of the number of motor vehicles registered during the last preceding registration year, determined by the ratio of the number of such vehicles registered in the county to the total number registered in the State as shown by the official report of the State Highway Department.

(4) Four-tenths of the moneys in said Account shall be allocated to the counties on the basis of lateral road mileage, determined by the ratio of the mileage of the lateral roads in the county to the total mileage of the lateral roads in the State as of January 1, 1939, as shown by the records of the State-Federal Highway Planning Survey and the State Highway Department.

If the records of the Highway Department and the State-Federal Highway Planning Survey are such that, in the opinion of the Highway Commission or of any county, there is a reasonable doubt as to their accuracy, the Highway Commission may authorize an independent survey to be made of that county's lateral road mileage upon its own motion or on the application of said county. The expense of such survey shall be borne by the county.

The moneys allocated to each county from the lateral road account shall be used by said county first for paying the principal, interest, and sinking fund requirements maturing during the fiscal year for which such money was allocated to such county on bonds, warrants, and other legal obligations issued prior to January 2, 1939, the proceeds of which were actually expended in acquiring right of ways for State designated highways, it being the intention of the Legislature to designate and set apart sufficient money to pay off and discharge said outstanding obligations incurred for right of way acquisition. The board shall require from each county a sworn statement of the outstanding right of way indebtedness incurred on State designated highways and in the event a false statement is furnished the board by any county, or where any county fails

or refuses to file a report, then such county shall be denied any benefits under this Section; it being the duty of the board before distributing any funds to any county under this Section where such county submits a report that it has no right of way indebtedness, or where said report is vague or indefinite, to audit and determine the correctness of such report. Funds remaining in the Lateral Road Fund of any county after the payment of said right of way obligations shall be used by the county for paying the maturing principal, interest, and sinking fund requirements, due by the county in that fiscal year on bonds, warrants, or other evidences of indebtedness which were legally issued by such county or road districts prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads. Payment to be made ratably upon the principal and interest on the maturing road bond obligations of said county for such fiscal years. Any funds remaining in the Lateral Road Fund of any county after the payment of said principal, interest, and sinking fund requirements due or maturing in that fiscal year on bonds or warrants which were legally issued by such county or road district prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads, may be used by the county under direction of the Commissioners Court for any one or all of the following purposes: (a) for the acquisition of right of ways for county lateral roads and for the payment of legal obligations incurred therefor prior to January 2, 1939, (b) for the construction or improvement of county lateral roads, (c) for the purpose of supplementing funds appropriated by the United States Government for Works Progress Administration highway construction, Public Works Administration highway construction, and such other grants of Federal funds as may be made available to the counties of this State for county lateral road construction, and (d) for the purposes of cooperating with the State Highway Department and the Federal Government in the construction of farm-to-market roads. Provided that when such funds are used for the construction or improvement of county lateral roads, such construction or improvement shall be made under the supervision of a competent engineer.

After such allocation has been made to the several counties in the State, the Board shall in writing notify the Chairman of the Commissioners Court of each county of the amount which has been credited to that county. After receiving said notice, the Commissioners Court shall, within sixty (60) days, notify the Board of the manner in which it has exercised its option as to the one or more specified uses of said money permitted under this Act.

Such money shall be applied pro rata to the payment of the debt service requirements of all issues of lateral road indebtedness of the county and all included defined road districts, in the proportion that the debt service requirements of each issue bears to the aggregate debt service requirements of all issues for that year. When any issue of obligations which will receive aid under this section is already listed with the Board of County and District Road Indebtedness, the Board shall credit the amount applicable to said issue to the account of said issue in the State Treasury. As to all other issues of obligations, which will receive aid under this subsection (h), the Commissioners Court of the specific counties affected shall have the right if so desired to utilize the facilities of the State Board of County and District Road Indebtedness in paying the amounts of principal and interest on said issues substantially in the manner that payments are effected as to such eligible obligations.

In the event that the funds so received by the county from the Lateral Road Account are in excess of the amount required to meet the

principal and interest of its maturing road bond obligations for the next fiscal year, the Commissioners Court, in that event, may elect to use such excess money allocated to it from the Lateral Road Account; and in such event, it shall notify, in writing, the said Board of its election to make use of said money. Whereupon, said Board shall remit said balance to be utilized for such purpose, to the County Treasurer of such county, said money to be deposited by the County Treasurer in accordance with the law, and the same shall be utilized by the county, acting through the Commissioners Court, for the construction of lateral roads. Each county may call upon the State Highway Commission to furnish adequate technical and engineering supervision in making surveys, preparing plans, and specifications, preparing project proposals and supervising actual construction; the actual cost of such aid in supervision shall be paid by the county as a charge against its project.

In order that maximum benefits may be obtained in the expenditures of the State fund made available to the counties under this Act for the construction of county lateral roads, and so that the counties may have the benefit of widespread competition among contractors in bidding on such projects, such counties may, in their discretion, authorize the State Highway Commission to receive bids in Austin on all such construction in the same manner as is now provided by law for the award of contracts on State Highways.

When any road which shall have been constructed by any county wholly from the County Lateral Road Account shall be designated by the State Highway Commission as a part of the System of Designated State Highways, the designation of such road by the State Highway Commission shall constitute a full and complete discharge of any and all obligations of the State, moral, legal, or implied, for the payment of such highway.

In the event the Commissioners Court elects to cooperate with the Highway Department in the building of, or in the construction of, farm-to-market roads, it shall by proper resolution entered upon its minutes, authorize the State Treasurer to pay such funds to be so used, over to the State Highway Department for use on certain designated projects. Regardless of how the funds allocated to the counties from the Lateral Road Account are used, the County Judge of each County shall file with the Board on or before October 1st, of each year, a verified report showing the manner in which the said funds have been expended, the nature and location of the roads constructed, and such other information as the Board may from time to time require.

(i) The County Commissioners Court of any county may exercise the authority now conferred by law to issue refunding obligations for the purpose of refunding any eligible debt of the county or of any defined road district; and such refunding obligations, when validly issued, shall be eligible obligations within the meaning of this Act, if said Board of County and District Road Indebtedness shall approve the maturities of said refunding obligations and the rate of interest borne by them. In any instance where in the opinion of said Board, the existing maturities of any issue of eligible obligations or any part thereof are such as to give the county or defined road district which issued them an inequitable or disproportionate participation in the moneys coming into the County and Road District Highway Fund in any particular period, said Board, in its discretion, may require said issue or any part thereof to be refunded into refunding obligations bearing such rate of interest and having such maturities as may be satisfactory to the Board, but in no event at a greater rate of interest than that provided in the original issue.

And if said county or defined road district shall fail or refuse to effectuate such refunding within a reasonable time to be fixed by said Board, said obligations so required to be refunded, and all other obligations of said county or defined road district shall cease to be eligible for participation in said County and Road District Highway Fund until the requirements of said Board with respect to refunding shall be complied with.

The Board of County and District Road Indebtedness is hereby made the refunding agent of each county and as such agent is directed to cooperate with the Commissioners Court of each county in effecting the necessary refunding of each issue of bonds; the Board shall prepare the necessary refunding orders for the Commissioners Court, prepare the proceedings and act in an advisory and supervisory capacity to the end that the expense of refunding any issue of bonds may be reduced to the minimum. Provided that no commission, bonus, or premium shall be paid by any county or defined road district for the refunding of such obligations, and no County Treasurer shall receive any commission for handling of the funds derived from the refunding of such obligations. All actual expense incurred in the refunding of its eligible indebtedness, including cost of proceedings, printing, legal approval and interest adjustment, shall be chargeable against the money theretofore or thereafter collected from ad valorem taxes, or at the option of the Commissioners Court conducting such refunding, may be paid from any other money under its control and available for the purpose, provided no obligations for such expense items shall be incurred or paid without affirmative approval by said Board.

(j) All moneys to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1941, to August 31, 1943, both inclusive, are hereby appropriated to said respective counties and defined road districts and shall be received, held, used and applied by the State Treasurer, as ex officio Treasurer of said respective counties and defined road districts, for the purposes and uses more specifically set forth in this Act, including the payment of principal, interest and sinking fund requirements on all eligible obligations maturing up to and including August 31, 1943. And each year thereafter until all of such eligible obligations are fully paid, all moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer, and all moneys remaining therein from the previous year, shall be received and held by him as ex officio Treasurer of such counties and defined road districts, and shall first be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time on said eligible obligations, and then for the other uses specified and permitted in this Act.

In the event any county, road district, or defined road district has since September 1, 1941, made any payment on eligible bonds, warrants, or other evidence of eligible indebtedness as defined under the terms of this Act, then such county, road district, or defined road district shall be reimbursed by the Board of County and District Road Indebtedness in the amount of the payment so made on such eligible obligations.

(k) As payment of principal and/or interest becomes due upon such eligible obligations, the State Comptroller of Public Accounts shall issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin, Texas, or by remitting to the bank or trust company or other place of payment designated in the particular obligation. Such warrants or voucher claims shall show on their face that the proceeds of the same are to be applied

by the paying agent to the payment of certain specified obligations or interest therein described, by giving the name of the county or defined road district by which they were issued, numbers, amounts, and dates of maturities of the obligations and interest to be paid with instructions to the State Treasurer, paying agent, bank, or trust company to return to the State Comptroller of Public Accounts such obligations and interest coupons when same are paid, and the State Comptroller of Public Accounts shall, upon receipt of said obligations and coupons, credit same on his records and send them, duly cancelled, to the Commissioners Court of the appropriate county, which shall cause to be duly entered a record of such cancellation. In instances wherein counties or defined road districts therein shall have arranged with the Board to pay principal or interest thereon, of outstanding lateral road indebtedness, the Board, the State Comptroller of Public Accounts, and the State Treasurer shall follow, in so far as practicable, the procedure prescribed in this subsection (k) for the payment of the principal and interest of eligible obligations.

(l) Expenses necessary to be incurred in the determination of the indebtedness of the counties and defined road districts of the State, and in the discharge of the duties required for the payment of such obligations shall be paid from the County and Road District Highway Fund by warrant approved by the Chief Accountant, the State Comptroller of Public Accounts, and one other member of said Board. The compensation of all employees of said Board shall be fixed by the Legislature. All employees of said Board of County and District Road Indebtedness shall be bonded, the amount of such bond being set by the Board.

(m) All of the securities now on hand in which sinking funds collected for the benefit of outstanding eligible issues are invested, and all funds and securities hereafter acquired for the benefit of the entire outstanding balance of all eligible bond issues shall be forwarded within thirty (30) days from the effective date of this Act, and thereafter within thirty (30) days of the acquisition of such fund or securities, to the State Treasurer as ex officio County Treasurer of the various counties and defined road districts. Provided that the cash now on hand in the sinking fund created for the benefit of outstanding eligible obligations may also be remitted as above set forth, at the option of such county or defined road district. Any county, the Commissioners Court of which fails or refuses to comply with the provisions of this Act in all things, including the levy, assessment, and collection of a tax and at a rate sufficient to pay all sums due or to become due, which the State is unable to pay or to provide each year the proportionate amount of sinking fund required to redeem its outstanding bonds at their maturity shall not participate in any of the benefits of this Act so long as such county fails or refuses to comply with the provisions thereof. The Board of County and District Road Indebtedness shall have and possess full authority to invest all such sinking funds, including all future sinking funds acquired in any manner whatsoever, in any eligible obligations of the various political subdivisions of this State, which mature within the current biennium in which such securities are purchased and where there is on hand a sufficient amount of moneys or securities to the credit of any one political subdivision to retire some of its outstanding obligations, whether then due or not, the Board of County and District Road Indebtedness may, if it deems it advisable, purchase and cancel said obligations of such particular political subdivision, irrespective of maturity dates. Provided further, that any county which has selected a depository according to law and in which county such depository has qualified by giving surety bonds or by the deposit of adequate securities of the kind provided by law, which in the opinion of the Board of County and District Road In-

debtedness is ample to cover the county deposits, and which county has not defaulted in the payment of any installment of principal and/or interest on any county bonds for a period of five (5) years next preceding the date of the filing of its application for exemption, and in which county all sinking funds of all bond issues are in excess of the standard required by law and which county has levied for the current tax year adequate rates in support of outstanding bond issues and warrants as required by the Constitution and Statutes of said State, shall be exempt from the provisions of this Subsection (m) of this Act, and which exemption shall be obtained by such county in the manner and under conditions prescribed by the said Board of County and District Road Indebtedness. Said Board shall have the right to inspect the records of such county at any subsequent date to ascertain whether or not the facts warrant the continuation of the exemption. If at any time, in the opinion of the Board, counties that have been granted exemption under the provisions of this Act shall cease to comply with all the conditions under which the exemption has been granted, the Board shall notify the county to return all securities in which the sinking funds of eligible road bond issues are invested and the residue in said sinking funds, and to begin immediately forwarding taxes levied and collected for the payment of interest and principal on all eligible road bond issues. Said counties whose exemption has been cancelled by said Board shall be given a period of thirty (30) days in which to comply with the demands of the Board. Provided further, that such county so exempt shall furnish the Board an annual statement of the condition of the sinking funds of the several eligible road bond issues, together with a financial statement of the county depository. The Board shall have the right to withhold the payment of any maturity on any eligible road bond indebtedness where such county has failed or refused to comply with all the provisions of this Act.

(n) The Board shall keep adequate minutes of its proceedings and semiannually, within thirty (30) days after February 28th and August 31st, of each year, shall make itemized reports to each county with respect to the receipt, disbursement, and investment of the funds credited to such county. The Commissioners Court of any county, and/or its accredited representatives shall have the right to inspect the records of said Board and of the State Treasurer, at any reasonable time for the purpose of making any investigation or audit of the accounts affecting its county.

(o) The Board shall, within ninety (90) days after the close of each fiscal year, make a complete accounting for the preceding year to the Governor of this State, showing in such report its act, investments, changes in investments and sinking fund status of each county and each defined road district, and shall file copies of such report with the President of the Senate and with the Speaker of the House of Representatives.

(p) In the event this Act is repealed, or shall be or become inoperative as to any county or defined road district, then it shall be the duty of the Board to ascertain immediately the amount of moneys and securities remaining on hand with it or with the State Treasurer belonging to the several counties or defined road districts affected, and forthwith to return the same to the County Treasurer of the county entitled thereto, accompanied by an itemized statement of the account of the county or defined road district.

(q) All funds on hand belonging to, and hereafter credited to, the several counties and defined road districts of the State, shall be considered State funds, and as such shall be deposited at intervals in the depositories provided for by the State laws, and all interest earned on such

funds and on the securities in which the sinking funds are invested shall belong to said counties or defined road districts, and shall be credited to them by the State Treasurer as earned and collected.

(r) Upon notice from the Board of the amount that such county or defined road district shall be required to pay toward any installment of interest, or maturing principal, the County Treasurer of such county shall, not later than twenty (20) days prior to the maturity date of such interest, principal, or sinking fund requirements, forward to the State Treasurer the amount fixed by the Board as being necessary to supplement the amounts previously placed to the credit of any such county or defined road district by said Board under the provisions of this Act. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

¹ Article 6674q—1 et seq.

Art. 6674q—8. Restrictions as to extending State credit

No provision of this Act shall be construed to authorize the giving or lending of the credit of the State to any county or district or to pledge the credit of the State in any manner whatever for the payment of any of the outstanding road indebtedness herein referred to of the counties or districts of the State. It is hereby declared that all eligible indebtedness, as herein defined, shall remain indebtedness of the respective counties or defined road districts which issued it, and said counties or defined road districts shall remain liable on said indebtedness according to its terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas, directly or indirectly or contingently, for the payment of any such obligations or that the State of Texas should assume the payment of said obligations, and this Act is not to be construed as obligating the State of Texas to the holders, of any of said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriation of any of the moneys hereinabove provided for, nor shall any provision hereof constitute a contract on the part of the State to make money available to any county for the construction of additional lateral roads. The provisions hereof are intended solely to compensate, repay, and reimburse said counties and districts for the aid and assistance they have given to the State in furnishing, advancing and contributing money for building and constructing State Highways. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Art. 6674q—8a. Bonds of navigation districts; preference over other bonds by Board of County and Road District Bond Indebtedness unauthorized

All bonds heretofore issued by navigation districts of this State, which mature on or after January 1, 1933, and in so far as amounts of same were issued for and the proceeds thereof actually expended in the construction of bridges across any stream or streams or any other waterways upon any highway that constituted and comprised a part of the system of designated State Highways on September 17, 1932, shall hereafter be included within and eligible under the provisions of Chapter 13 of the Acts of the Forty-second Legislature of Texas, passed at its Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session,¹ to the extent that the proceeds of the sale of said bonds shall have been actually expended in the construction of such bridges and in such cases the outstanding bonds of said navigation districts in an amount equal to the amount so expended by such navigation districts shall be redeemed under the same conditions as are provided by said

Chapter 13, Acts of the Forty-second Legislature of Texas, Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session,¹ for the redemption of County and Road District Bonds.

It is expressly provided that the Board of County and District Road Indebtedness shall not be authorized to give the bonds herein referred to preference over other similar bonds eligible under said Bond Act; and it is further expressly provided that said Board in determining the amount of bonds eligible for assumption shall take into consideration the amount of the bond money expended for the construction of said bridge and the balance due on said amount of bonds used in the construction of said bridge at the effective date of this Act; and in no event shall said Board be authorized to assume in excess of the balance due on the bonds for the said bridge construction at the effective date of this Act. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

¹ Article 6674q—1 et seq.

Art. 6674q—8c. Lateral Road Account; punishment for unauthorized use

It shall be unlawful for any County Judge or any County Commissioner, while acting in his official capacity or otherwise, to use any money out of the Lateral Road Account for any purpose except the purposes enumerated in this Act. If any County Judge or any County Commissioner shall knowingly expend or use, or vote for the use or agree to expend or use any sum of money accruing to any county in this State from the Lateral Road Account, for any purpose not authorized by this Act or shall knowingly make any false statement concerning the expenditure of any such money, he shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the State Penitentiary for not less than two (2) years nor more than five (5) years. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Art. 6674q—9. Legislative policy; State title to roads

If succeeding Legislatures shall continue to carry out the policy herein defined by authorizing a similar appropriation of funds from time to time, (a) then whenever the eligible obligation shall have been fully paid as herein provided, as to or for any county or defined road district according to the provisions of this Act, then and in that event, the title and possession of all roads, roadbeds, bridges, and culverts, in such county or defined road district which are included in the system of designated State Highways, shall automatically vest in fee simple in the State of Texas, in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; and (b) whenever the interest and principal necessary to retire the outstanding indebtedness owed for lateral roads shall have been fully paid as herein provided, as to, or for any county or defined road district according to the provisions of this Act, then and in that event, the title of all roads, roadbeds, bridges and culverts, in such county or defined road district pertaining to the lateral roads, constructed with the proceeds of such indebtedness, shall automatically vest in the State of Texas, but the possession thereof shall remain in such county or defined road district, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; provided that when the right of way, or any part thereof, pertaining either to a State Highway or a lateral road, has been abandoned because of the abandonment of such road for all public purposes, and such right of way, or any part thereof, was donated by the owner of the land for right of way purposes,

then and in that event the title to the said right of way shall vest in said owner, his heirs or assigns; provided, however, that nothing in this Act shall prevent the State Highway Commission from changing or abandoning any State Highway, and if the Commission shall change or abandon any State Highway in any county, the Commissioners Court of such county shall have the right to assume jurisdiction over such portion of such highway so abandoned by the State Highway Commission. Likewise, the title to additional lateral roads when constructed shall vest in the State of Texas. Provided, however, that this Act neither imposes the obligation on, nor confers the right in the State of Texas, to maintain and lay out any roads except those constituting a part of the designated State Highway System as hereinabove in this Act defined. The obligation to maintain or lay out all other roads, including lateral roads and additional lateral roads as defined in this Act, shall remain undisturbed in the several Commissioners' Courts as agents of the State. As amended Acts 1941, 47th Leg., 1st C.S., H.B. #6, § 1.

Art. 6674q—10. Partial invalidity

If any section, subsection, paragraph, sentence, clause, or provision of this Act shall, for any reason, be held invalid, such invalidity shall not affect any other portion of this Act or the application of such section, subsection, paragraph, sentence, clause, or provision to any other person or situation, but this Act shall be construed and enforced as if such invalid provisions had not been contained therein. As amended Acts 1941, 47th Leg., 1st C.S., H.B. # 6, § 1.

2. REGULATION OF VEHICLES

Art. 6675a—1. Definitions of terms

The following words and terms, as used herein, have the meaning respectively ascribed to them in this Section, as follows:

(i) "Commercial Motor Vehicles" means any motor vehicle (other than a motorcycle or passenger car) designed or used primarily for the transportation of property, including any passenger car which has been reconstructed so as to be used, and which is being used, primarily for delivery purposes, with the exception of passenger cars used in the delivery of the United States mails. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 1.

(r) "Implements of husbandry" shall mean farm implements, machinery and tools as used in tilling the soil, but shall not include any passenger car or truck. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 2.

Amendment of 1941 to subsections (i) and (r), approved and effective April 10, 1941.

Section 15 of the amendatory Act of 1941 repealed all conflicting laws or parts of laws, to the extent of such conflict.

Section 16 of the amendatory Act of 1941 read as follows: "If any section, subsection, phrase, clause, sentence or portion hereof shall for any reason be held invalid, the same shall not affect the re-

maining portions and provisions of this Act; and the Legislature hereby declares that it would have passed this Act without such portion that might be held invalid."

Section 17 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Certificate of Title Act, see Pen.Code art. 1436—1.

[Art. 6675a—2. Registration]

Every owner of a motor vehicle, trailer or semi-trailer used or to be used upon the public highways of this State shall apply each year to the

State Highway Department through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; provided that where a public highway separates lands under the dominion or control of the owner, the operation of a motor vehicle by such owner, his agents or employees, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State. Owners of farm tractors, farm trailers, farm semi-trailers, and implements of husbandry, operated or moved temporarily upon the highways shall not be required to register such farm tractors, farm trailers, farm semi-trailers, or implements of husbandry; provided, however, that such farm trailers and farm semi-trailers are operated in conformity with all provisions of the law save and except the requirements as to registration and license; and providing further, that the exemptions in this section shall not apply to any farm trailer or farm semi-trailer when the gross weight exceeds four thousand (4,000) pounds; provided, that no farm trailer or farm semi-trailer with metal tires shall be permitted to operate at a speed in excess of fifteen (15) miles per hour; and further provided, that the exemptions in this section shall not apply to any farm trailer or farm semi-trailer with steel tires of a width less than three (3) inches operating in excess of fifteen (15) miles per hour; and providing further, that the exemption in this section shall not apply to any farm trailer or farm semi-trailer when the same is used for hire; provided, however, it shall be unlawful to operate any trailer or semi-trailer at night without a rear red light or red reflectors. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 3.

Approved April 10, 1941.

Effective April 10, 1941.

Section 13 of the amendatory Act of 1941 read as follows: "Each County Tax Assessor-Collector shall and he is hereby authorized to correct and adjust registration fees collected by him for the 1941 registration year prior to the effective date of this Act, so as to conform to the provisions of this Act; provided, however, that no such proposed correction or

adjustment of fees shall be made by any County Tax Assessor-Collector unless and until the proposed correction or adjustment of fees has first been submitted to and approved by the State Highway Department. It is provided further that the provisions of this section shall not extend beyond the end of the 1941 registration year."

See note to art. 6675a-1.

[Art. 6675a—6. Fees; commercial motor vehicles or truck-tractors]

The annual license fee for the registration of a commercial motor vehicle or truck tractor shall be based upon the gross weight and tire equipment of the vehicle as follows:

Gross Weight in Pounds	Fee per 100 Pounds or Fraction Thereof	
	Equipped With Pneumatic Tires	Equipped With Solid Tires
1- 6,000	\$.40	\$.50
6,001- 8,000	.45	.60
8,001-10,000	.55	.70
10,001-17,000	.65	.80
17,001-24,000	.70	.90
24,001-31,000	.80	1.00
31,001—and up	.90	1.20

The term "gross weight" as used in this section shall mean the actual weight of the vehicle fully equipped with body, and other equipment, as

certified by any Official Public Weigher or any License and Weight Inspector of the State Highway Department, plus its net carrying capacity. "Net carrying capacity" of any vehicle except a bus, as used in this section, shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. The "net carrying capacity" of a bus as defined in this Act shall be computed by multiplying its seating capacity by 150 pounds. The seating capacity of any such vehicle shall be the manufacturer's rated seating capacity exclusive of the driver's or operator's seat. The seating capacity of any such vehicle not rated by the manufacturer shall be determined by allowing one passenger for each sixteen (16) inches that such vehicle will seat, exclusive of the driver's or operator's seat. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 5.

Approved April 10, 1941.

Effective April 10, 1941.

Emergency section. See note under article 6675a—1.

County Tax Assessor-Collector to correct and adjust registration fees collected for 1941 registration year, see article 6675a—2 note.

[Art. 6675a—6a. Reduction of registration fee on trucks used by farmers]

When a commercial motor vehicle sought to be registered and used by the owner thereof only in the transportation of his own poultry, dairy, livestock, livestock products, timber in its natural state, and farm products to market, or to other points for sale or processing, or the transportation by the owner thereof of laborers from their place of residence, and materials, tools, equipment and supplies, without charge, from the place of purchase or storage, to his own farm or ranch, exclusively for his own use, or use on such farm or ranch, the registration license fee, for the weight classifications herein mentioned, shall be fifty (50%) per cent of the registration fee prescribed for weight classifications in Section 6 of the Act¹ hereby amended, as amended in this Act; provided further, that it shall be the duty of the Highway Commission to provide license plates distinguishable from license plates used for other commercial motor vehicles using the highways; provided further, if the owner of any commercial motor vehicle, coming within the provisions of this Act, shall use or permit to be used any such vehicle for any other purpose than those provided for in this Act, he shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars, and each use of such vehicle and each permission for such use of such vehicle shall constitute a separate offense; provided, however, that all commercial motor vehicles, truck tractors, road tractors, trailers and semi-trailers as defined in Section 1 of Chapter 23 of the General Laws of the Fifth Called Session of the 41st Legislature,² not coming within the provisions of this Act shall be required to pay all registration and license fees prescribed by the other provisions of Chapter 88, General Laws of the 41st Legislature, Second Called Session as amended by this Act.³ As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 4.

¹ Article 6675a—6.

² Article 6675a—1.

³ Article 6675a—1 et seq.

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

Approved April 10, 1941.

Effective April 10, 1941.

Emergency section. See note under article 6675a—1.

County Tax Assessor-Collector to correct and adjust registration fees collected for 1941 registration year, see Article 6675a—2 note.

[Art. 6675a—7. Fees; road tractors]

The annual license fee for the registration of a road tractor shall be based upon the weight of the tractors, as certified by any Official Public Weigher or any License and Weight Inspector of the State Highway Department, as follows:

Gross Weight in Pounds	Fee per 100 Pounds or Fraction Thereof
1- 4,000	\$.25
4,001- 6,000	.50
6,001- 8,000	.60
8,001-10,000	.75
10,001—and up	1.00"

As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 6.

Approved April 10, 1941.

Effective April 10, 1941.

Emergency section. See note under article 6675a—1.

County Tax Assessor-Collector to correct and adjust registration fees collected for 1941 registration year, see Article 6675a—2 note.

[Art. 6675a—8. Fees; trailers or semi-trailers]

The annual license fee for the registration of trailer or semi-trailer shall be based upon the gross weight and tire equipage of the trailer or semi-trailer as follows:

Gross Weight in Pounds	Fee per 100 Pounds or Fraction Thereof	
	Equipped With Pneumatic Tires	Equipped With Solid Tires
1- 6,000	\$.30	\$.40
6,001- 8,000	.40	.50
8,001-10,000	.50	.60
10,001-17,000	.60	.80
17,001—and up	.65	.90

The term "gross weight" as used in this section means the actual weight of the trailer or semi-trailer, as officially certified by any Public Weigher or any License and Weight Inspector of the State Highway Department, plus its net carrying capacity. "Net carrying capacity" as used in this section shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 7.

Approved April 10, 1941.

Effective April 10, 1941.

Emergency section. See note under article 6675a—1.

County Tax Assessor-Collector to correct and adjust registration fees collected for 1941 registration year, see Article 6675a—2 note.

[Art. 6675a—8a. Fees; motor busses]

Annual license fees for the registration of motor buses shall be based upon the "gross weight" of the vehicle as follows:

Gross Weight in Pounds	Fee per 100 Pounds or Fraction Thereof	
	Equipped With Pneumatic Tires	Equipped With Solid Tires
1- 4,000	\$1.25	\$1.50
4,001- 6,000	1.35	1.75
6,001- 8,000	1.40	1.85
8,001-16,000	1.50	2.00
16,001-24,000	2.00	2.25
24,001-28,000	2.50	2.75
28,001-and up	4.00	6.00"

As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 8.

Approved April 10, 1941.
Effective April 10, 1941.
See note to art. 6675a-1.

County Tax Assessor-Collector to correct and adjust registration fees collected for 1941 registration year, see Article 6675a-2 note.

Art. 6675a—8b. Width of motor vehicles and farm tractors

No motor vehicle shall be registered and licensed which has a total outside width, including any load thereon, of more than ninety-six (96) inches, except that the width of a farm tractor shall not exceed nine (9) feet, and excepting further, that the limitations as to size of vehicle shall not apply to implements of husbandry, and highway building and maintenance machinery temporarily propelled or moved upon the public highway. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 9.

Approved April 10, 1941.
Effective April 10, 1941.
See note to art. 6675a-1.

and adjust registration fees collected for 1941 registration year, see Article 6675a-2 note.

County Tax Assessor-Collector to correct

Art. 6675a—8c. Diesel motors, vehicles propelled by; fee; license receipts to show type of motor

It is expressly provided that the license fees for all vehicles using or being propelled by Diesel motors or engines shall be the fees provided above, plus an additional ten (10%) per cent. It is further provided that the County Tax Collector, in issuing the license receipts for motor vehicles provided for in this Act, shall clearly indicate on the license receipt the type of motor by which the vehicle is propelled when such motor is powered by Diesel fuel, butane gas, or any distillate other than gasoline. Acts 1929, 41st Leg., 2nd C.S. p. 172, ch. 88, § 8c, added Acts 1941, 47th Leg., p. 144, ch. 110, § 10.

Approved April 10, 1941.
Effective April 10, 1941.

County Tax Assessor-Collector to correct and adjust registration fees collected for 1941 registration year, see Article 6675a-2 note.

Art. 6675a—13b. Registration for branch office

In all counties having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700) inhabitants, according to the last preceding Federal Census, the County Tax Collector may establish a suboffice or

branch office at one or more places in the county other than at his office in the county courthouse for the purpose of making sales of motor vehicle license plates, and the County Tax Collector shall have authority to appoint a Deputy to make such sales in the same manner and with the same authority as though they were made in the office of the County Tax Collector, and the report of all of such sales shall be made through the office of the County Tax Collector just as though such sales were actually made in his office. Acts 1929, 41st Leg., 2nd C.S., p. 172, ch. 88, § 13b, added Acts 1941, 47th Leg., p. 545, ch. 340, § 1.

Filed without the Governor's signature,
May 26, 1941.

Effective May 27, 1941.

Section 2 of the Act of 1941 repealed all

conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6675a—16. Agreements with other states regarding exemption from registration fees; punishment for violation

(a) In addition to and regardless of the provisions of this Act, or any other Act relating to the operation of motor vehicles over the public highways of this State by non-residents, the State Highway Department acting by and through the State Highway Engineer is hereby authorized to enter into agreements with duly authorized officials of other States exempting the residents of such other States using the public highways of this State from the payment of registration fees for such periods or extensions of time as may be granted residents of Texas using the public highways of such other State.

(b) This section shall be cumulative of all other laws on this subject, but in the event of a conflict between the provisions of this section and any other Act on this subject, the provisions of this section shall prevail.

(c) Any person owning or operating a vehicle not registered in this State, in violation of the terms of any agreement made under this section, or in the absence of any agreement, in violation of the applicable registration laws of this State, shall be guilty of a misdemeanor and upon conviction shall be fined any sum not exceeding Two Hundred (\$200.00) Dollars. Acts 1941, 47th Leg., p. 144, ch. 110, § 14.

Approved April 10, 1941.

Effective April 10, 1941.

Emergency section. See note under article 6675a—1.

Art. 6687a. Repealed. Acts 1941, 47th Leg., p. 245, ch. 173, § 45.

Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports

ARTICLE I—WORDS AND PHRASES DEFINED

Section 1. Definition of words and phrases.

The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this title.

(a) "Vehicle." Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle." Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motorcycle." Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor and machinery for maintaining or cleaning streets.

(d) "School Bus." Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(e) "Motor Bus." Every vehicle, except those operated by muscular power or exclusively on stationary rails or tracks, which is used in transporting persons between or through two or more incorporated cities and towns for compensation (or hire), whether operated over fixed routes or otherwise; except such of said vehicles as are operated exclusively within the limits of incorporated cities and towns and suburban additions thereto.

(f) "Farm Tractor." Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(g) "Implements of Husbandry." Farm implements, machinery, and tools as used in tilling the soil, namely: cultivators, farm tractors, reapers, binders, combines, or mowing machinery, but shall not include any automobile or truck.

(h) "Director." The Director of the Department of Public Safety of the State of Texas.

(i) "Department." The Department of Public Safety of the State of Texas, acting directly or through its authorized officers and agents, except in such sections of this Act in which some other State Department is specifically named.

(j) "Persons." Every natural person, firm, copartnership, association, or corporation.

(k) "Pedestrian." Any person afoot.

(l) "Driver." Every person who drives or is in actual physical control of a vehicle.

(m) "Operator." Every person, other than a chauffeur or commercial operator, who is in actual physical control of a motor vehicle upon a highway.

(n) "Commercial Operator." Every person who is the driver of a motor vehicle designed or used for the transportation of property, including all vehicles used for delivery purposes, while said vehicle is being used for commercial or delivery purposes.

(o) "Chauffeur." Every person who is the driver for wages, compensation, or hire, or for fare, of a motor vehicle transporting passengers.

(p) "Nonresident." Every person who is not a resident of this State.

(q) "Highway." The entire width between property lines of any road, street, way, thoroughfare, or bridge in this State not privately owned or controlled, when any part thereof is open to the public for vehicular traffic and over which the State has legislative jurisdiction under its police power.

ARTICLE II—ISSUANCE OF LICENSES, EXPIRATION, AND RE-NEWAL

Sec. 2. Drivers must have license.

(a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this State unless such person has a valid license as an operator, a commercial operator, or a chauffeur under the provisions of this Act.

(b) Any person holding a valid chauffeur's or commercial operator's license hereunder need not procure an operator's license.

(c) No person holding an operator's, commercial operator's, or chauffeur's license duly issued under the provisions of this Act shall be required to obtain any license for the operation of a motor vehicle from any other State authority or department. Subsection (c) of Section 4 of Article 911A and Subsection (b) of Section 4 of Article 911B, Revised Civil Statutes, is hereby repealed.

Sec. 3. What persons are exempt from license.

The following persons are exempt from license hereunder:

1. Every person in the service of the United States when operating an official motor vehicle in such service;

2. Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway, and while driving or operating any commercial motor vehicle temporarily on the highway in an emergency;

3. A nonresident who is at least sixteen (16) years of age and who has in his immediate possession a valid operator's license issued to him in his home State may operate a motor vehicle in this State only as an operator;

4. A nonresident who is at least eighteen (18) years of age and who has in his immediate possession a valid chauffeur's license issued to him in his home State may operate a motor vehicle in this State either as an operator, commercial operator, or chauffeur except any such person must be licensed as a chauffeur hereunder before accepting employment as a chauffeur from a resident of this State, or must be licensed as a commercial operator before accepting employment as a commercial operator from a resident of this State, and provided further that a valid Texas operator's, commercial operator's, or chauffeur's license is required of any person operating a motor vehicle in this State, which vehicle is registered in this State, or is operating under a permit issued by any authority of this State; provided, however, it shall not be necessary for an employee of any incorporated city, town, or village of this State, or county of this State, when holding an operator's permit, to obtain a chauffeur's license in order to operate an official motor vehicle in the service of such incorporated city, town, village, or county;

5. Any nonresident who is at least eighteen (18) years of age, whose home State does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle so operated is duly registered in the home State of such nonresident.

Sec. 4. Who may not be licensed.

The Department shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of sixteen (16) years, except that the county judge of the county wherein such person resides may, after investigation, authorize the Department, in

writing, to issue a license to any such person, when, in his opinion, the person so applying is qualified and conditions exist which make it necessary for such person to be licensed as an operator; provided, however, that in no event shall an operator's license of any class be issued to any person less than fourteen (14) years of age;

2. To any person, as a commercial operator, who is under sixteen (16) years of age;

3. To any person, as a chauffeur, who is under sixteen (16) years of age;

4. To any person, as an operator, a commercial operator, or a chauffeur, whose license has been suspended, during such suspension or revocation;

5. To any person, as an operator, commercial operator, or chauffeur, who is shown to be an habitual drunkard or addicted to the use of narcotic drugs;

6. To any person, as an operator, commercial operator, or chauffeur, who has previously, by a court of competent jurisdiction, been adjudged insane or an idiot, imbecile, or feeble-minded, and who has not, at the time of such application, been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent;

7. To any person, as an operator, commercial operator, or chauffeur, who is required by this Act to take an examination, unless such person shall have successfully passed such examination;

8. Neither an operator's, commercial operator's, nor chauffeur's license shall be issued to any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs in the English language; provided, however, no person shall be refused a license because of any physical defect unless it be shown by common experience that such defect incapacitates him from safely operating a motor vehicle;

9. To any person when the Department has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare.

Sec. 5. Special restrictions on drivers of school buses and public or common carrier motor vehicles.

No person who is under the age of twenty-one (21) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school, nor any motor vehicle while in use as a public or common carrier of persons nor in either event until he has been licensed as a chauffeur.

Sec. 6. Application for license.

(a) Every application for an original or renewal of an operator's, commercial operator's, or chauffeur's license shall be made upon a form furnished by the Department, and every original application shall be verified by the applicant before a person authorized to administer oaths, and officers and employees of the Department are hereby authorized to administer such oaths without charge. No officer or employee of the State shall be permitted to make any charge to administer such oaths. Every said application shall be accompanied by the required fee.

(b) Every said application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what State or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal.

Sec. 7. Application of minors.

The Department shall not grant the application of any minor under the age of eighteen (18) years for an operator's, commercial operator's, or chauffeur's license unless such application is signed by the father of the applicant, if the father is living and has the custody of the applicant, otherwise by the mother or guardian having the custody of such minor, or in the event a minor under the age of eighteen (18) years has no father, mother, or guardian, the license shall not be issued to the minor unless his application therefor is signed by his employer or by the county judge of his residence.

Sec. 8. Release from liability.

Any person who has signed the application of a minor for a license may thereafter file with the Department a request that the license of said minor so granted be cancelled, which request shall be in writing and acknowledged before some officer authorized to administer oaths. Thereupon the Department shall cancel the license of said minor and the person who signed the application of such minor shall be relieved from any liability by reason of having signed such application on account of any subsequent negligence or wilful misconduct of such minor in operating a motor vehicle.

Sec. 9. Revocation of license upon death of person signing minor's application.

The Department upon receipt of satisfactory evidence of the death of the persons who signed the application of a minor for a license may cancel such license and may not issue a new license until such time as a new application, duly signed and verified, is made as required by this Act. This provision shall not apply in the event the minor has attained the age of eighteen (18) years.

Sec. 10. Examination of applicants.

The Department shall examine every applicant for an operator's, commercial operator's, or chauffeur's license, except as otherwise provided in this Section. Such examination shall be held in the county where the applicant resides or makes application within not more than ten (10) days from the date application is made. It shall include a test of the applicant's vision, his ability to understand highway signs in the English language regulating, warning, and directing traffic, his knowledge of the traffic laws of this State, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, and provided further that the Director shall have the authority to cause to be re-examined licensee in any case which in his judgment the licensee is incapable of operating a motor vehicle, said examination shall be held in the county of the licensee's residence unless otherwise agreed to by both parties to be held elsewhere.

Sec. 11. Licenses issued to operators, commercial operators, and chauffeurs.

The Department shall, upon payment of the required fee, issue to every applicant qualifying therefor an operator's, commercial operator's, or chauffeur's license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, age, residence address and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee.

Sec. 12. Restricted licenses.

(a) The Department upon issuing an operator's, commercial operator's, or chauffeur's license shall have authority, whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the Department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The Department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(c) The Department may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same, but the licensee shall be entitled to a hearing as upon a suspension or revocation under this Act.

(d) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him.

Sec. 13. License to be carried and exhibited on demand.

Every licensee shall have his operator's, commercial operator's, or chauffeur's license in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a magistrate or any officer of a court of competent jurisdiction or any peace officer. It shall be a defense to any charge under this Section that the person so charged produce in court an operator's, commercial operator's, or chauffeur's license theretofore issued to such person and valid at the time of his arrest.

Sec. 14. Duplicate licenses.

In the event that an instruction permit or operator's, commercial operator's, or chauffeur's license issued under the provisions of this Act is lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the Department that such permit or license was lost or destroyed, and upon the payment of a fee of twenty-five cents (25¢).

ARTICLE III—FEES**Sec. 15. Disposition of fees.**

All fees and charges required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week to the Department at Austin, Texas, and all such fees so collected shall be deposited in the State Treasury in a fund to be known as the "Operator's and Chauffeur's License Fund." Such

funds as may be necessary for the purpose of defraying the expenses of this Act through the biennium ending August 31, 1943, including the employment of necessary clerical and administrative help and defraying the necessary expenses incident to any judicial hearing relative to the suspension or revocation of licenses, and including printing and transportation of all necessary forms and licenses hereinbefore provided, and including the purchase through bids taken by the Board of Control of all necessary furniture, fixtures and equipment of any nature, shall be provided by the Legislature through appropriation therefor. The number of employees and the salaries of each shall be as fixed in the biennial departmental appropriation bill.

Sec. 16. Method of disbursements.

All disbursements hereunder shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Department of Public Safety Commission and approved by one other member of the Commission or the Director, and such vouchers shall be accompanied by itemized sworn statements of the expenditures for which they are issued.

Sec. 17. Report of receipts and expenses.

At the end of every fiscal year, the Department shall submit a comprehensive and complete report of the receipts and expenses of this Act to the Governor of the State of Texas.

Sec. 18. Expiration of licenses.

(a) Every operator's license issued under Senate Bill No. 15, Chapter 466, Page 1785, General Laws, Second Called Session, Forty-fourth Legislature, as amended by House Bill No. 16, Chapter 369, Page 752, Regular Session, Forty-fifth Legislature,¹ shall expire as hereinafter set forth and shall be renewable without examination upon application and payment of required fee unless the Department has reason to believe that the licensee is no longer qualified to receive a license.

For the purpose of expediting the renewal of outstanding licenses, they shall expire and be subject to renewal as follows:

Licenses listed numerically from number 1 to 450,000 expire December 31, 1941, and are renewable on and after October 1, 1941;

Those listed numerically 450,001 to 900,000 expire March 31, 1942, and are renewable on and after January 1, 1942;

Those listed numerically 900,001 to 1,350,000 expire June 30, 1942, and are renewable on and after April 1, 1942;

Those listed 1,350,001 and following and issued on or before September 30, 1941, shall expire November 1, 1942, and be renewable on and after July 1, 1942.

(b) Any licensee failing to make application for renewal of license as above set forth may be required to take examination as required in this Act for applicant's original license.

(c) All licenses issued under this Act shall expire two (2) years from date of issuance.

(d) Every commercial operator's and chauffeur's license shall expire one (1) year from date of its issuance and shall be renewable on or before its expiration date upon application and payment of the required fee. The Department may in its discretion waive examination for the renewal of a commercial operator's or chauffeur's license.

Sec. 19. Fees for licenses.

The fees as provided for in this Act shall be, as follows:

For a chauffeur's license, Three Dollars (\$3); for a commercial operator's license, One Dollar (\$1); for an operator's license, fifty cents (50¢).

Sec. 20. Notice of change of address or name.

Whenever any person after applying for or receiving an operator's, commercial operator's, or chauffeur's license shall move from the address named in such application or in the license issued to him or when the name of the licensee is changed by marriage or otherwise such person shall within ten (10) days thereafter notify the Department in writing of his old and new addresses or of such former and new names and of the number of any license then held by him.

Sec. 21. Records to be kept by the Department.

(a) The Department shall file every application for a license received by it and shall maintain suitable indices containing, in alphabetical or numerical order:

1. All applications denied and on each thereof note the reason for such denial;
2. All applications granted;
3. The name of every licensee whose license has been suspended or revoked by the Department and after each such name note the reasons for such action.

(b) The Department shall also file all accident reports and abstracts of court records of convictions received by it under the laws of the State and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the Department upon any application for renewal of license and at other suitable times.

ARTICLE IV—CANCELLATION, SUSPENSION, AND REVOCATION OF LICENSES**Sec. 22. Authority of Department to suspend or revoke a license.**

(a) When under Section 10 of this Act the Director believes the licensee to be incapable of safely operating a motor vehicle, the Director may notify said licensee of such fact and summons him to appear for hearing as provided hereinafter. Such hearing shall be had not less than ten (10) days after notification to the licensee or operator under any of the provisions of this Section, and upon charges in writing a copy of which shall be given to said operator or licensee not less than ten (10) days before said hearing. For the purpose of hearing such cases jurisdiction is vested in the mayor of the city, or judge of the police court, or a justice of the peace in the county or subdivision thereof where the operator or licensee resides. Such court may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relative books and papers. It shall be the duty of the court to set the matter for hearing upon ten (10) days written notice to the Department. Upon such hearing, in the event of an affirmative finding by the court, the officer who resides at such hearing shall report the same to the Department which shall have authority to suspend said license for a period not greater than one (1) year, provided, however, that in the event of such affirmative finding the licensee may appeal to the county court of the county wherein the hearing was held, said appeal to be tried de novo. Notice by registered mail to address shown on the license of licensee shall constitute service for the purpose of this Section.

(b) The authority to suspend the license of any operator, commercial operator, or chauffeur as authorized in this Section is granted the De-

partment upon determining after proper hearing as hereinbefore set out that the licensee:

1. Has committed an offense for which automatic suspension of license is made upon conviction;
2. Has been responsible as a driver for any accident resulting in the death or personal injury of another or serious property damage;
3. Is an habitually reckless or negligent driver of a motor vehicle;
4. Is an habitual violator of the traffic law;
5. Is incapable to drive a motor vehicle;
6. Has permitted an unlawful or fraudulent use of such license;
7. Has committed an offense in another State, which if committed in this State would be grounds for suspension or revocation;
8. Has failed or refused to submit a report of any accident in which he was involved as provided in Section 39 of this Act.

Sec. 23. Period of suspension.

The Department shall not suspend a license for a period of more than one (1) year.

Sec. 24. Automatic suspension of license.

(a) The license of any person shall be automatically suspended upon final conviction of any of the following offenses:

1. Negligent homicide resulting from the operation of a motor vehicle;
2. Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;
3. Any offense punishable as a felony under the motor vehicle laws of this State;
4. A conviction of a driver of a motor vehicle involved in an accident or collision, upon a charge of failure to stop, render aid, and disclose his identity at the scene of said accident or collision;
5. A conviction upon a charge of aggravated assault upon the person by means of motor vehicle, as provided by law.

(b) The suspension above provided shall in the first instance be for a period of six (6) months. In event any license shall be suspended under the provision of this Section for a second time, said second suspension shall be for a period of one (1) year.

(c) The suspension of any license shall be automatically extended upon licensee being convicted of operating a motor vehicle while the license of such person is suspended; such extended period of suspension to be for a like period as the original suspension, and is in addition to any other penalty assessed, as provided in this Act.

Sec. 25. When court to report convictions.

(a) Whenever any person is convicted of any offense for which this Act makes automatic the suspension of the operator's, commercial operator's, or chauffeur's license of such person, the court in which such conviction is had shall require the surrender to it of all operators', commercial operators', and chauffeurs' licenses then held by the person so convicted and the clerk of said court shall thereupon forward the same together with a record of such conviction to the Department, within ten (10) days from the date of conviction.

(b) Every court having jurisdiction over offenses committed under this Act, or any other Acts of this State regulating the operation of motor vehicles on highways, shall forward to the Department a record of the conviction of any person in said court for a violation of any said laws, and may recommend the suspension of the operator's, commercial operator's, or chauffeur's license of the person so convicted, as provided in Section 22 of this Act.

(c) For the purpose of this Act, the term "conviction" shall mean a final conviction. Also, for the purpose of this Act, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

Provided, however, that in case of conviction for any of the offenses enumerated in paragraph (a) of Section 24 of this Act, and the sentence of the court having been suspended as provided in the Statutes, such suspended sentence shall not mitigate against the suspension of the operator's, commercial operator's, or chauffeur's license of the person convicted.

Sec. 26. Surrender and return of license.

The Department, upon suspending or revoking a license, shall require that such license shall be surrendered to and be retained by the Department except that at the end of the period of suspension of such license, the license so surrendered shall be returned to the licensee.

Sec. 27. No operation under foreign license during suspension or revocation in this State.

No person, resident or nonresident, whose operator's, commercial operator's, or chauffeur's license or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this Act shall operate a motor vehicle in this State under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this Act.

Sec. 28. Suspending resident's license upon conviction in another State.

The Department is authorized to suspend or revoke the license of any resident of this State upon receiving notice of the conviction of such person in another State of an offense therein which, if committed in this State, would be grounds for suspension or revocation of the license of an operator, commercial operator, or chauffeur.

Sec. 29. Suspending privileges of nonresidents and reporting convictions.

(a) The privilege of driving a motor vehicle on the highways of this State given to a nonresident hereunder shall be subject to suspension or revocation by the Department in like manner and for like cause as an operator's, commercial operator's, or chauffeur's license issued hereunder may be suspended or revoked.

(b) The Department is further authorized, upon receiving a record of the conviction in this State of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this State, to forward a certified copy of such record to the motor vehicle administrator in the State wherein the person so convicted is a resident.

Sec. 30. Cancellation of license because of mental incompetence.

It shall be unlawful for any person to act as an operator, commercial operator, or chauffeur who is an habitual drunkard or is addicted to the use of narcotic drugs, or who is an epileptic, or who has been adjudged insane or an idiot, imbecile, or feeble-minded, and who has not been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, and any finding by any court of competent jurisdiction that any person holding an operator's license, commercial operator's license, or chauffeur's license who is either insane, feeble-minded, an habitual drunkard, an epileptic, an imbecile, an idiot, or addicted

to the use of narcotics, shall carry with it a revocation of such operator's, commercial operator's, or chauffeur's license, and it shall be the duty of the clerk of any court in which such findings are made, to certify same to the Department within ten (10) days.

Sec. 31. Right of appeal to courts.

Any person denied a license or whose license has been cancelled or revoked by the Department except where such cancellation or revocation is automatic under the provisions of this Act shall have the right to file a petition within thirty (30) days thereafter for a hearing in the matter in the County Court at Law in the county wherein such person shall reside, or if there be no County Court at Law therein, then in the county court of said county, and such court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon ten (10) days written notice to the Department, and thereupon to take testimony and examine into the facts of the case, and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation or revocation of license under the provisions of this Act.

Provided the trial on appeal as herein provided for shall be a trial de novo and the licensee shall have the right of trial by jury and his license shall not be suspended pending the appeal.

Provided further in cases herein provided for suspension of license, the filing of the petition of appeal shall abate said suspension until the trial herein provided for shall have been consummated and final judgment thereon is had.

Sec. 32. Violation of license provision.

It shall be unlawful for any person to commit any of the following acts:

1. To display or cause or permit to be displayed or to have in possession any operator's, commercial operator's, or chauffeur's license knowing the same to be fictitious or to have been cancelled, revoked, suspended, or altered;

2. To lend or knowingly permit the use of, by one not entitled thereto, any operator's, commercial operator's, or chauffeur's license issued to the person so lending or permitting the use thereof;

3. To display or to represent as one's own, any operator's, commercial operator's, or chauffeur's license not issued to the person so displaying same;

4. To fail or refuse to surrender to the Department on demand any operator's, commercial operator's, or chauffeur's license which has been suspended, cancelled, or revoked as provided by law;

5. To apply for or have in one's possession more than one operator's, commercial operator's, or chauffeur's license that is currently valid;

6. To use a false or fictitious name or give a false or fictitious address in any application for an operator's, commercial operator's, or chauffeur's license, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to cancel¹ a material fact or otherwise commit a fraud in any such application.

¹ So in enrolled bill. Probably should read "conceal."

Sec. 33. Making false affidavit false swearing.

Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the terms of this Act to be sworn to or affirmed, is guilty of false swearing and upon conviction shall be punishable by fine or imprisonment as other persons committing false swearing are punishable.

Sec. 34. Driving while license suspended or revoked.

Any person whose operator's, commercial operator's, or chauffeur's license or driving privilege as a nonresident has been cancelled, suspended, or revoked as provided in this Act, and who drives any motor vehicle upon the highways of this State while such license or privilege is cancelled, suspended, or revoked is guilty of a misdemeanor, and, upon conviction, shall be punished by fine of not less than Twenty-five Dollars (\$25), and not more than Five Hundred Dollars (\$500), and, in addition thereto, there may be imposed a sentence of imprisonment not to exceed six (6) months.

Sec. 35. Permitting unauthorized minor to drive.

No person shall cause or knowingly permit his child or ward under the age of eighteen (18) years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this Act.

Sec. 36. Permitting unauthorized person to drive.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this Act.

Sec. 37. Employing unlicensed chauffeur or commercial operator.

No person shall employ as a chauffeur or commercial operator of a motor vehicle any person not then licensed as provided in this Act.

Sec. 38. Renting motor vehicle to another.

(a) No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a nonresident, then duly licensed under the laws of the State of his residence except a nonresident whose home State does not require that an operator be licensed.

(b) No person shall rent a motor vehicle to another until he has inspected the operator's, commercial operator's, or chauffeur's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his presence.

(c) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer or officer or employee of the Department.

ARTICLE V—ACCIDENT REPORTS**Sec. 39. Accidents to be reported by persons involved.**

Every person involved in an accident resulting in death, injury, or apparent property damage of Fifty Dollars (\$50) or more where one or more motor vehicles are involved and who is the holder of an operator's, commercial operator's, or chauffeur's license, under the provisions of this Act, shall make a report of such accident to the Department of Public Safety within forty-eight (48) hours. Refusal to make such report shall render the holder of such license liable to suspension or revocation of such license. Reports required by this Section shall be deemed privileged communications.

Sec. 40. Accident statistics and reports.

The Department shall prepare and shall supply to police and sheriffs' offices and other suitable agencies, forms for accident reports, and such

reports shall be made within a reasonable time from the date of such accident by such officers or agencies to the Department at Austin, Texas, sufficiently detailing all the facts with reference to any highway accident, and the persons and vehicles involved.

Sec. 41. Report of deaths resulting from accidents.

Every coroner, justice of the peace, or other official performing like functions shall on or before the tenth (10th) day of each month report in writing to the Department the death of any person within his jurisdiction during the preceding calendar month as the result of any accident in which a motor vehicle was involved and the circumstances of such accident.

Sec. 42. Accident reports confidential.

All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department except that the Department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of such accident, except that the Department shall furnish upon request of any person who has, or claims to have, made such a report or upon demand of any court, a certificate showing that a specified report has or has not been received by the Department, solely to prove a compliance or failure to comply with the requirement that such report be made to the Department.

Sec. 43. Department to tabulate accident reports.

The Department shall receive accident reports required to be made by law and shall tabulate and analyze such reports and publish annually or at more frequent intervals, statistical information based thereon as to the number, cause, and location of highway accidents; and the Department shall biennially report to the Governor and the Legislature the abstract of such reports for the preceding biennium, with its conclusions and findings and recommendations for decreasing highway accidents and increasing safety upon the highways of Texas.

ARTICLE VI

Sec. 44. Penalty for violation of Act.

(a) It shall be a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other laws of this State declared to be a felony.

(b) In addition to any other penalties hereinbefore provided, and unless another penalty is in this Act or by the laws of this State provided, every person convicted of a misdemeanor for the violation of any provision of this Act shall be punished by fine of not more than Two Hundred Dollars (\$200).

Sec. 45. Repeal of conflicting laws.

All laws or parts of laws in conflict herewith are hereby expressly repealed, and more particularly Senate Bill No. 15, Chapter 466, Page 1785, General Laws, Second Called Session, Forty-fourth Legislature, as amended by House Bill No. 16, Chapter 369, Page 752, Regular Session, Forty-fifth Legislature.¹

Sec. 46. Constitutionality.

If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act and the Legislature hereby declares that it would have

passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional. Acts 1941, 47th Leg., p. 245, ch. 173.

1 Article 6687a.

Approved April 23, 1941.

Effective April 23, 1941.

Section 47 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for licensing of operators, commercial operators, and chauffeurs; defining certain terms; providing for certain exemptions; prohibiting issuance of licenses to certain persons; making it unlawful for certain persons to operate a school bus or any motor vehicle while in use as a public or common carrier of persons; providing for application for operators', commercial operators', and chauffeurs' licenses; repealing Subsection (c) of Section 4 of Article 911A and Subsection (b) of Section 4 of Article 911B, Revised Civil Statutes; providing for signing of application of minors and cancellation of minor's license upon application and/or death of signatory; providing for examinations of applicants for operators', commercial operators', and chauffeurs' licenses, and providing the Director shall have the authority to re-examine licensee when said licensee is found incapable of operating a motor vehicle; providing for the issuance of operators', commercial operators', and chauffeurs' licenses, and duplicates thereof; providing for the issuance of restricted operators', commercial operators', and chauffeurs' licenses; providing a penalty for a violation of the restrictions imposed and for the revocation or suspension of restricted licenses; relating to the carrying of a license by the licensee and exhibiting same; prescribing the amount of fees and providing for the collection of same by the Department of Public Safety and the disposition of same; providing for the time of expiration of licenses and for renewal of same; providing for notice to the Department of changes of address or name of licensee; providing for certain records to be kept by the Department of Public Safety; relating to the authority of the Department of Public Safety to suspend, revoke, or cancel licenses; providing for time, place, and manner of holding hearings before the Department of Public Safety; provid-

ing for the period of suspension by the Department; providing for the automatic suspension of licenses upon conviction of certain offenses; providing for the surrender and return of license to the Department upon suspension; providing for court to forward license to Department and report convictions and defining "conviction" and providing that a suspended sentence shall not mitigate against automatic suspension of license on conviction of certain offenses; prohibiting the operation of motor vehicle under foreign license during suspension or revocation in this State; providing authority of the Department of Public Safety to suspend or revoke license and to suspend privileges of nonresidents and report convictions, and to suspend resident license upon conviction in another State; providing for the cancellation of licenses under certain conditions; providing for the right of appeal when license denied or cancelled, suspended or revoked by Department, except where such suspension or revocation is automatic; providing the filing of the petition of appeal shall abate said suspension until the trial herein provided for shall have been consummated and final judgment thereon is had; providing the trial on appeal shall be a trial de novo and the licensee shall have the right of trial by jury and his license shall not be suspended pending the appeal; prohibiting the driving of motor vehicle while license or privilege is cancelled, suspended or revoked; making it unlawful to commit certain other acts; providing authority of the Department of Public Safety to require accident reports and providing a penalty for failure to report; providing for forms of accident statistics and reports and making such reports confidential; providing for a penalty for violation of the Act, and providing for a maximum fine in certain instances; repealing all laws and parts of laws in conflict herewith, and particularly Senate Bill No. 15, Chapter 466, Page 1785, General Laws, Second Called Session, Forty-fourth Legislature, as amended by House Bill No. 16, Chapter 369, Page 752, Regular Session, Forty-fifth Legislature; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 245, ch. 173.

Art. 6695. Misrepresenting weight; punishment; venue for prosecutions

If any person shall operate, or permit to be operated, any motor vehicle, licensed under this law, of a greater weight than stated in his declaration or application for license, he shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars, and each use of such vehicle shall constitute a separate offense; and venue for prosecutions hereunder shall

lie in any county in which any motor vehicle is operated with a greater gross weight than that stated in the declaration or application for a license for such motor vehicle. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 11.

Approved April 10, 1941.

Effective April 10, 1941.

Section 17 of amendatory Act of 1941

declared an emergency and provided that the Act should take effect from and after its passage.

Art. 6699. County traffic officers

County police force in counties of 210,000 or more, appointment, compensation and duties, see article 6869d.

Art. 6699b. Unconstitutional

This article, derived from Acts 1935, 44th Leg., p. 711, ch. 306, relating to employment and salaries of county traffic officers was void as a local or special law in violation of Const. art. 3, § 56, because, by the terms thereof, although it applied to coun-

ties of 125,000 or over, it did not apply to counties of not less than 195,000 and not more than 205,000, such classification being an arbitrary one. See *Anderson v. Wood*, Sup., 152 S.W.2d 1084, reversing, Civ.App., 143 S.W.2d 96.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6716. Damage to roads

"Sec. 15. Each member of the Commissioners Court shall be and he is hereby required to devote all of his time (unless prevented by illness) to the duties of his office, and shall be in attendance at all sessions of the Court. In addition thereto he shall personally inspect the condition of the roads and bridges of the county, and shall see to it that employees under the control of the Commissioners Court perform their full duties. Each Commissioner shall receive an annual salary of Forty-two Hundred Dollars (\$4200), payable in monthly installments, of which at least one-half and not more than seventy-five (75) per cent shall be paid out of the

Road and Bridge Fund of the county, and the remainder out of the General Fund. Each County Commissioner shall be entitled to an allowance, not to exceed Fifty Dollars (\$50) per month for each Commissioner, in payment of his traveling expenses and other legitimate and necessary expenses incident to the discharge of his official duties. All such claims shall be verified by such Commissioner and approved by the County Auditor and the Commissioners Court." As amended Acts 1941, 47th Leg., p. 397, ch. 230, § 1.

Amendment of 1941 to section 15 of this Act, filed without the Governor's signature, May 12, 1941. Effective May 21, 1941.

CHAPTER THREE—MAINTENANCE OF ROADS

4. OPTIONAL ROAD LAW

Art.

6770a—2. Road duty in counties of 29,240 to 29,250; payment exempting [New].

3. ROAD SUPERINTENDENTS

Art. 6748. 6960, 4770 Road districts

Abolishment of dormant road districts, see article 752c—1.

4. OPTIONAL ROAD LAW

Art. 6770a—1. Repealed. Acts 1941, 47th Leg., p. 741, ch. 462, § 2.
Eff. June 10, 1941

Article was derived from Acts 1941, 47th Leg., p. 244, ch. 172.

Art. 6770a—2. Road duty in counties of 29,240 to 29,250; payment exempting

Section 1. Road Duty. All counties having a population of not less than twenty-nine thousand, two hundred and forty (29,240) and not more than twenty-nine thousand, two hundred and fifty (29,250), according to the last preceding or any future United States Federal Census, shall require all male persons between the ages of twenty-one (21) and forty-five (45) years who do not reside in an incorporated city, town, or village to be liable to work, repair, and clean out the public roads under the provisions of this title subject to the following conditions:

1. Ministers in the active discharge of their duties, invalids, members of volunteer fire companies in the active discharge of their duties, and persons who have not been residing in the county in which they are summoned to work for fifteen (15) days immediately preceding such summons shall be exempt.

2. Any person so liable who has been summoned to do such duty may furnish an able-bodied substitute to work in his place. The overseer shall not accept such substitute if he is incapable of performing a reasonable amount of work.

3. Any person so liable may pay the Tax Assessor-Collector of said counties on or before the first day of May of each year the sum of Three Dollars (\$3), and he shall be exempt from said public road work.

4. Each person summoned to work on a road shall take with him an ax, hoe, pick, spade, or such tools as the overseer directs, or if he has no such tools, then such other substitute tools as he may have.

5. Each road hand shall perform his duties under the direction of his overseer. No person shall be compelled to do such work more than five (5) days of eight (8) hours efficient service in each year.

6. Summons. Each overseer shall summon in writing the persons he desires for road duty, giving the time and place such persons are required to appear to work on the road, and the number of days such persons shall be required to work. A written summons may be served by leaving the same at the usual place of abode of the person summoned with some person residing at such place who is not less than ten (10) years of age, or by posting it on the door of such abode. The overseer may appoint someone to summon the hands and such person shall be exempt from road duty as many days as he was actually so engaged. When such persons are summoned, the day they are summoned, they shall be given notice one full day before they are to report for road duty, no previous notice being necessary; provided that said summons shall not be served on any person who is not within the age bracket between the ages of twenty-one (21) and forty-five (45) years.

Sec. 2. That all laws or parts of laws in conflict herewith be and the same are hereby repealed, and House Bill No. 709 of the Forty-seventh Legislature¹ is hereby expressly repealed. Acts 1941, 47th Leg., p. 741, ch. 462.

¹ Article 6770a—1.

Filed without the Governor's signature, June 7, 1941.

Effective June 10, 1941.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing in all counties having a population of not less than twenty-nine

thousand, two hundred and forty (29,240) and not more than twenty-nine thousand, two hundred and fifty (29,250), according to the last preceding or any future United States Federal Census, there shall be imposed upon all male persons who do not reside in an incorporated city, town, or village the duties of working five (5) days of eight (8) hours efficient service on public roads each year, or the payment on or before May 1st of each year the sum of

Three Dollars (\$3); providing for the summoning of persons in said counties for work on the public roads, said summons when issued shall compel the persons to be given notice one full day before they are to report after summons for road duty; fixing

age bracket for persons to be summoned; repealing all laws in conflict herewith; and particularly repealing House Bill No. 709 of the Forty-seventh Legislature; and declaring an emergency. Acts 1941, 47th Leg., p. 741, ch. 462.

CHAPTER FIVE—BRIDGES AND FERRIES

1. BRIDGES

Art.

6795b. Causeways, bridges, and tunnels authorized in Gulf Coast counties of 50,000 or more [New].

1. BRIDGES

Art. 6795b. Causeways, bridges, and tunnels authorized in Gulf Coast counties of 50,000 or more

Section 1. That any county in the State of Texas which borders on the Gulf of Mexico and which has a population of fifty thousand (50,000) or more, according to the last Federal Census, preceding the authorization of bonds hereunder, acting through its Commissioners Court, is hereby authorized and empowered to construct, acquire, improve, operate, and maintain a causeway, bridge, tunnel, or any combination of such facilities, including all necessary approaches, fixtures, accessories, and equipment (all of which are hereinafter referred to as "the project") from one point in said county to another, in, over, through, or under the waters of the Gulf of Mexico or any bay or inlet opening thereinto, and to issue its revenue bonds payable solely from the revenues to be derived from the operation thereof, to pay the cost of such construction, acquisition, or improvement. The cost of the project shall be considered to include the cost of construction, the cost of all property, real, personal, and mixed, and all appurtenances, easements, contracts, franchises, pavements, and properties of every nature, used or useful in connection with the construction, acquisition, improvement, operation, and maintenance of the project, shall include the payment of the cost of condemning any such property, including both the payment of the award and the payment of the court costs and attorneys fees, shall include the payment of all legal, fiscal, and engineering expenses incurred in connection with the acquisition and construction of the project and the making of preliminary surveys and investigations and the authorization and issuance of the revenue bonds, and shall include the payment of interest on the bonds prior to and during the period occupied by the construction of the project and for one year thereafter. If the Commissioners Court shall consider it desirable to acquire, through purchase or lease, existing ferry properties for the purpose of operating such properties during the period of construction, over the route to be traversed by the project, such properties may be so acquired and the cost thereof paid from the proceeds of the bonds. Any preliminary expenses paid by the county from its general funds shall be repaid to such funds from the proceeds of the bonds when available, and all engineering and fiscal contracts and agreements for such projects heretofore entered into are hereby validated and confirmed; provided, however, that nothing in this Act shall authorize the construction of a bridge over and across any ship channel or waterway leading to any port.

Bonds; charge only on revenues of project; approval and registration

Sec. 2. That no bonds authorized hereunder shall ever be a debt of the county issuing them, but shall be solely a charge upon the revenues of the project and shall never be reckoned in determining the power of the county to issue any bonds for any purpose authorized by law. Each such bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Bonds issued hereunder may be presented to the Attorney General for his approval in the same manner and with like effect as is provided for the approval of tax bonds issued by counties. In such case the bonds shall be registered by the State Comptroller as in the case of other county bonds.

Acceptance of Federal aid; contracts; acquisition of property

Sec. 3. That any county proceeding hereunder may accept any loan, gift, or grant from the United States of America or the State of Texas, or any agency or instrumentality thereof, and may enter into any agreement or agreements not prohibited by the constitution which may be necessary to obtain such loan, grant, or gift. Construction contracts may be awarded with or without advertised notice for bids in such manner as may be deemed advisable by the Commissioners Court. Such county may enter on any lands, waters, and premises for the purpose of making surveys, soundings, and examinations, and if considered advisable may exercise the right of eminent domain and may institute condemnation proceedings under the provisions of any pertinent general law of Texas for the purpose of acquiring any property to be used or useful in connection with the project. The county shall be under no obligation to accept and pay for any property condemned and shall in no event pay for same except from the proceeds derived from the sale of the revenue bonds, and in any condemnation suit the Court having jurisdiction may make such orders as may be just to the county and to the owners of the property to be condemned. Upon the institution of any such condemnation proceedings and upon tender of a bond or other security in sufficient sum to secure the owner or owners for damages and upon approval of such bond or other security by the Court, the county shall have the right to immediate possession of the property which is the subject matter of the condemnation proceedings and may enter thereon. The State of Texas hereby expressly grants to any such county full easements and rights of way through, across, under, and over any lands or property owned by the State which may be necessary or convenient to the construction, acquisition or efficient operation of the project.

Bonds; tolls; trust indenture

Sec. 4. That bonds issued hereunder may be authorized by resolution at one time or from time to time. Such bonds shall be payable solely from the revenues to be derived from the operation of the project and it shall be the mandatory duty of the county to impose such tolls and charges for use of the project as will be fully sufficient to operate and maintain the project, pay principal of and interest on the bonds when due and establish such reserve therefor as may be provided, and establish an adequate fund for depreciation and replacement. The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof, provided that the bonds shall not run more than forty (40) years from their date, and that the interest rate and sale price shall be such that the interest cost of the bonds shall not exceed six (6) per cent per annum, computed on average maturities

according to standard tables of bond values. The bonds may be made redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court prior to the issuance of the bonds. All bonds issued hereunder shall and are hereby declared to have all of the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. Provision may be made for registration of such bonds as to principal or interest or both. The proceeds of the bonds shall be used solely to pay the cost of the project as above defined, and shall be disbursed under such restrictions as may be provided in the bond resolution or trust indenture hereinafter mentioned, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds or any trustee provided for in respect of such bonds. Unless otherwise provided in such resolution or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the project, additional bonds may be issued to the amount of the deficit and shall be deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued. Any surplus remaining from bond proceeds after the cost of the project has been paid in full shall be used in paying interest on and retiring bonds. Prior to the issuance of definitive bonds, temporary or interim bonds, with or without coupons, exchangeable for definitive bonds may be issued. Such bonds may be authorized and issued without any proceedings or the happening of any conditions or things or the publication of any proceedings or notices other than those specifically specified and required by this Act, and may be authorized and issued without regard to the requirements, restrictions, or procedural provisions contained in any other law. The resolution authorizing the bonds may provide that such bonds shall contain a recital that they are issued pursuant to this Act and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

If so provided by the Commissioners Court, the bonds may be secured by a trust indenture by and between the county and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the State of Texas. Such trust indenture may pledge or assign tolls and revenues but shall not convey or mortgage the project itself or any part thereof. Either the resolution providing for the issuance of the bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance, operation, repair, and insurance of the project, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company in this State to act as depository of the proceeds of the bonds or revenues derived from the operation of the project and to furnish such indemnity bonds or to pledge such securities as may be required by the county. Such bond resolution or indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual rights of action of the bondholders. In addition to the foregoing, such bond resolution or trust indenture may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders including, but without limitation, covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which any or all of the bonds shall become or may be declared to be due before ma-

turity and as to the rights, liabilities, powers, and duties arising upon the breach by the county of any of its duties or obligations.

Rights of bondholders or trustee for bondholders; receiver

Sec. 5. That any holder or holders of bonds issued hereunder, including a trustee or trustees for such holders, shall have the right in addition to all other rights by mandamus or other proceeding in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against any board which may be created to operate the project and against the agents and employees thereof, including, but not limited to, the right to require the county and such board to impose and collect sufficient tolls and charges to carry out the agreements contained in the bond resolution or trust indenture and to perform all agreements and covenants therein contained and duties arising therefrom, and to apply for and obtain the appointment of a receiver for the project. If such receiver be appointed, he may enter and take possession of the project and maintain the project and collect and receive all revenues and tolls arising therefrom in the same manner as the county itself might do and shall dispose of such moneys and apply same in accordance with the obligations of the county under the bond resolution or trust indenture and as the Court may direct.

Board of trustees to manage project

Sec. 6. That the management and control of the project during such time as any of the bonds remain outstanding may by the terms of the bond resolution or trust indenture be placed in the hands of a Board of Trustees to be named therein, consisting of not more than five (5) members, to be appointed in such manner and to have such powers and duties as may be therein provided.

Bonds free from taxation

Sec. 7. That the accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within this State.

Powers of counties and of State Highway Commission

Sec. 8. That the powers herein granted may be carried out by such counties and the projects may be acquired and operated and tolls and charges fixed and maintained without the consent, approval, supervision, or regulation of any commission, department, bureau, agency, or officer of the State of Texas, provided however, that nothing in this Section shall be construed to prevent the State Highway Commission from operating and maintaining the project or contributing to the cost of such maintenance under such provisions not inconsistent with the rights of bondholders as may be agreed to by the county. The State Highway Commission shall have authority without further legislative enactment to make such provision for and contributions toward maintenance of the project as it may see fit, and to lease the project under such terms not inconsistent with the provisions of the bond resolution or trust indenture as may be agreed upon with the county, and to declare the project or any part thereof to be a part of the State Highway System and to operate the project or such part thereof as a part of the State Highway System, provided, however, that such declaration may be made and such operation

undertaken only to the extent that property and contract rights in the project and in the bonds are not unfavorably affected thereby. When all of the bonds and interest thereon shall have been paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity shall have been set aside in a trust fund for the benefit of the bondholders and shall continue to be held for that purpose, the project shall become a part of the State Highway System and shall be maintained by the State Highway Commission, free of tolls.

Refunding bonds

Sec. 9. That subject to any restrictions which may appear in the aforesaid trust indenture or bond resolution, the Commissioners Court may by resolution provide for the issuance of bonds for the purpose of refunding any bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within three (3) months.

Repeal

Sec. 10. House Bill No. 9, Chapter 32, Acts, Fourth Called Session, Forty-third Legislature,¹ is hereby repealed.

¹ Article 795 note.

Partial invalidity

Sec. 11. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered. Acts 1941, 47th Leg., p. 822, ch. 509.

Filed without the Governor's signature, June 18, 1941.

Effective June 16, 1941.

Section 12 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Gulf Coast counties in Texas having fifty thousand (50,000) population or more to construct, acquire, improve, operate, and maintain causeways, bridges, tunnels, or any combination thereof, including related properties and ferries, and to issue their revenue bonds payable solely from the revenues to be derived from the operation of such projects; making various provisions with respect thereto and with respect to the security and enforcement of such bonds, including provision for the execution of trust indentures, for the appointment of receivers for such projects, and for the deposit and security of funds in banks and trust companies; providing that nothing in this Act shall authorize the construction of a bridge over and across any ship channel or waterway

leading to any port; providing for approval of such bonds by the Attorney General; authorizing such counties to exercise the rights of condemnation in the manner provided; authorizing such counties to enter into agreements with the State or Federal Governments or any agencies or instrumentalities thereof; granting to such counties easements and rights of way in and over State lands and properties; providing for the management and control of such projects; providing that such projects and bonds shall be exempt from taxation; providing that the powers herein granted may be exercised without the consent or regulation of any State department, commission, or agency; authorizing the State Highway Commission to operate, maintain, or lease such projects; authorizing the refunding of such bonds; validating existing agreements; making general provisions with respect to the above; repealing House Bill No. 9, Chapter 32, Acts, Fourth Called Session, Forty-third Legislature; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 822, ch. 509.

TITLE 117—SALARIES

Art. 6813b. Salaries of State officers for biennium, exceptions

Salaries of state officers for subsequent bienniums, see article 6824 note.

Art. 6824. 7086, 4853 Change in salary

Acts 1941, 47th Leg., p. 813, ch. 503, approved and effective June 14, 1941, read as follows:

"§ 1. The salaries of all State officers and all State employees, except those Constitutional State officers whose salaries are specifically fixed by the Constitution and except the salaries of the District Judges and other compensation of District Judges shall be, for the period beginning September 1, 1941, and ending August 31, 1943, in such sums or amounts as may be provided for by the Legislature in the general appropriation bills. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of Court fees and receipts, to be paid to the clerks and other employees of the Courts

of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals.

"§ 2. All laws and parts of laws fixing the salaries of all State officers and employees, except those Constitutional State officers whose salaries are specifically fixed by the Constitution and except the salaries of the District Judges and other compensation of District Judges are hereby specifically repealed in so far as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals are repealed in so far as they are in conflict with this Act."

TITLE 119—SEQUESTRATION

Arts. 6841-6843. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 696-698, Vernon's Texas Rules of Civil Procedure.

Art. 6845. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 699, Vernon's Texas Rules of Civil Procedure.

Arts. 6849-6857. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 701-709, Vernon's Texas Rules of Civil Procedure.

Arts. 6859-6864. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 710-716, Vernon's Texas Rules of Civil Procedure.

TITLE 120—SHERIFFS AND CONSTABLES

1. SHERIFFS

Art. 6869. [7125] [4896] May appoint deputies, etc.

Counties of 31,500 to 32,000

Acts 1941, 47th Leg., p. 359, ch. 197, § 1, read as follows: "In counties having a population of not less than thirty-one thousand, five hundred (31,500) and not more than thirty-two thousand (32,000), according to the last preceding Federal Census, the provisions of Article 6869, Revised Civil Statutes of Texas, of 1925, as

amended, in so far as such limits the number of deputies allowable to sheriffs shall not apply, but the sheriff in any such county shall have the number of deputies allowed him by the Commissioners Court of such county."

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Art. 6869d. County police force in counties of 210,000 or more

Section 1. In every county of this state having a population of two hundred, ten thousand (210,000) or more, according to the last preceding United States census, there is hereby created a county police force, to be composed of such number of patrolmen not less than six, as may be fixed by the Commissioner's Court. All of said patrolmen shall be appointed by the sheriff, subject to approval by the Commissioners' Court, and one of their number shall be so appointed chief of the county police.

Sec. 2. Each of said patrolmen shall be deputized by the sheriff and shall have the power and authority of a Deputy Sheriff, and all laws of this state applicable to deputy sheriffs shall apply to such patrolmen, except where they may be in conflict with this Act. They shall hold their position until removed by the sheriff, with the approval of the Commissioner's Court.

Sec. 3. The salary of the patrolmen and of the chief of county police shall be fixed by the Commissioner's Court and paid out of the General Fund of the county. It shall be the duty of such patrolmen to carefully patrol, either in a motor car or in a motorcycle all the highways of the county located outside of the corporate limits of the county seat thereof, and they shall each be required to furnish a motorcycle or motorcar, and their salary shall include their compensation for furnishing such car and the cost of maintaining and operating the same. Such patrolmen shall perform their duties under rules and regulations prescribed and promulgated by the Commissioners' Court. Such patrolmen shall devote their entire time when on duty to patrolling that part of the county outside of the corporate limits of the county seat and to matters pertaining to that service.

Sec. 4. All fees earned by such patrolmen or accruing to the sheriff by reason of their services shall be paid to the county for the use of the general county fund. Acts 1929, 41st Leg., ch. 150, p. 326.

Approved and effective Feb. 19, 1929.

Section 5 of the Act of 1929 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the creation of a County Police force in all counties having 210,000 population or more according to the last United States census; whose duty

it shall be to patrol that part of the county lying outside of the corporate limits of the county seat; to better provide for the enforcement of the law in said counties by providing for additional enforcement officers; prescribing the manner of the appointment of the members of such county police force, their duties and compensations; and declaring an emergency. Acts 1929, 41st Leg., ch. 150, p. 326.

Art. 6872. 6393, 3825 Control of courthouse

Courthouses, control of maintenance employees by Commissioners' Court, see arts. 2351, 2351c.

Art. 6875. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 16, Vernon's Texas Rules of Civil Procedure.

TITLE 121—STOCK LAWS

CHAPTER ONE—MARKS AND BRANDS

Art.
6899f. Marks and brands of livestock in
Gonzales County [New].

Art.
6899g. Marks and brands of livestock in
Austin and Colorado Counties
[New].

Art. 6899f. Marks and brands of livestock in Gonzales County

This Act shall apply to Gonzales County only. In said County each owner of any livestock mentioned in Chapter 1 of Title 121, of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect have his mark and brand for such stock recorded in the office of the County Clerk of said County. Such owners shall so record such marks and brands whether the same have been heretofore recorded or not. The owner shall have the right to have his mark and brand recorded in his name who according to the present records of said County first recorded same in the County, or in event it cannot be ascertained from the records who first recorded same in the County, then the person who has been using such mark and brand the longest shall have the right to have the same recorded in his name. After the expiration of six (6) months only the records made after this Act takes effect shall be examined or considered in recording marks and brands in said County. Immediately upon the taking effect of this Act the County Clerk of said County shall have this Act published in some newspaper of general circulation in the County for a period of thirty (30) days, which publication shall be paid for by the County out of the General County Fund. Added Acts 1941, 47th Leg., p. 82, ch. 67, § 1.

Filed without Governor's signature,
March 21, 1941.

Effective April 2, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act relating to marks and brands of livestock in Gonzales County only; amending Article 6899 of the Revised Civil Statutes of Texas, by adding thereto a new section requiring that in said County each owner of any livestock mentioned in Chapter 1, of Title 121 of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect, have his mark and brand for such stock recorded at

the office of the County Clerk of said County; and providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from taking effect of this Act all records and marks and brands now in existence shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said County; and further providing that the County Clerk of said County shall publish this Act in some newspaper in general circulation in the County for a period of thirty (30) days; and declaring an emergency. Acts 1941, 47th Leg., p. 82, ch. 67.

Art. 6899g. Marks and brands of livestock in Austin and Colorado Counties

This Act shall apply to Austin and Colorado Counties only. In said Counties each owner of any livestock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of Texas, of 1925,¹ shall within six (6) months after this Act takes effect have his mark and brand for such stock recorded in the office of the County Clerk of his home County. Such owners shall so record such marks and brands whether the same have been heretofore recorded or not. The owner shall have the right to have his mark and brand recorded in his name who according to the present records of his home County first recorded the same in

the County, or in event it can not be ascertained from the records who first recorded same in the County, then the person who has been using such mark and brand the longest shall have the right to have the same recorded in his name. After the expiration of six (6) months from the taking effect of this Act all records of marks and brands now in existence in said Counties shall no longer have any force or effect and after the expiration of six (6) months only the records made after this Act takes effect shall be examined or considered in recording marks and brands in said Counties. Immediately upon the taking effect of this Act the County Clerk of each of said Counties shall have this Act published in some newspaper of general circulation in the County for a period of thirty (30) days, which publication shall be paid for by the County out of the General County Fund. Acts 1941, 47th Leg., p. 358; ch. 196, § 1.

1 Article 6890 et seq.

Filed without the Governor's signature, April 30, 1941.

Effective May 5, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act relating to marks and brands of livestock in Austin and Colorado Counties only; requiring that in each of said Counties each owner of any livestock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect have his mark and brand of such stock recorded at the office of the County Clerk of his home County; and

providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from the taking effect of this Act all records and marks and brands now in existence shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said Counties; and further providing that the County Clerk of each of said Counties shall publish this Act in some newspaper in general circulation in his home County for a period of thirty (30) days; and declaring an emergency. Acts 1941, 47th Leg., p. 358, ch. 196.

CHAPTER SIX—STOCK RUNNING AT LARGE

Art. 6954a. Election as to domestic turkeys running at large

Upon the written petition of twenty-five (25) freeholders of any political subdivision of Blanco, DeWitt, Gonzales, Gillespie, Guadalupe, Parker, Wise, and Clay Counties, the Commissioners Courts of such Counties shall order an election to be held in such subdivisions, which subdivision shall be described in the petition and defined by the Commissioners Court, on the day named in the order for the purpose of enabling the freeholders of such subdivisions to determine whether domestic turkeys shall be permitted to run at large in such subdivisions of such Counties. The requisites of the petition, the order of the Court, the order of the County Judge, the election and all proceedings thereunder shall be the same as prescribed in Articles 6957 to 6971, inclusive, of the Revised Civil Statutes of Texas, 1925, Title 121, Chapter 6, and all provisions thereof, relative to stock running at large, the impounding thereof, and the penalty therefor shall be applicable to domestic turkeys running at large in the event any such subdivision of said Counties shall by election prohibit the running at large of domestic turkeys by a vote as in such Statutes provided; provided that the fees for impounding domestic turkeys shall be Ten (10) Cents per day for each domestic turkey so impounded. As amended Acts 1941, 47th Leg., p. 243, ch. 171, § 1.

Filed without the Governor's signature, April 25, 1941.

Effective May 5, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

<p>Art. 7047a—20. Comptroller of Public Accounts to collect occupation taxes [New].</p> <p>7047c—3. Cigarette tax inapplicable to sales to or by United States military or naval posts, camps, or exchanges [New].</p>	<p>Art. 7047k. Motor vehicle retail sales tax [New].</p> <p>7047l. Radios, cosmetics, cards; luxury excise tax; penalty for making false report or failure to report [New].</p> <p>7047m. Stock transfer and sales tax [New].</p>
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Art. 7047. 7355, 5049 Occupation taxes

40A. Repealed. Acts 1941, 47th Leg., p. 269, ch. 184, Art. III, § 1.

Acts 1941, 47th Leg., p. 269, ch. 184, Art. III, § 1, purported to repeal Acts 1931, 42nd Leg., p. 355, ch. 212, § 1, which amended enumerated subdivisions of Article 7047 and added other subdivisions, including subdivision 40A. Since section 1 of article

III of the Act of 1941, incorporated in subd. 40b of this article merely revised the occupation tax on sulphur producers, it was apparently the legislative intent to repeal only subdivision 40A relating to the occupation tax on sulphur producers.

40b. Occupation tax on sulphur producers.—Section 1. Sulphur Producers: Each person, firm, association, or corporation who owns, controls, manages, leases, or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller in this State, or if such person be other than individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding, and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar and Twenty-seven and Two Tenths Cents (\$1.272) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter.

Each person subject to the payment of this tax shall cause to be made, kept, and preserved a full and complete record of all sulphur produced in this State by it, all of which record shall be open at all times to official inspection and examination by the Comptroller or the Attorney General, or any employee of or representative of the Comptroller or the Attorney General. Said records may be destroyed after three years from the last entry appearing in any such record. Any person failing to keep such record, or records, as herein required, shall forfeit to the State of Texas as a penalty any sum not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000), payable to the State of Texas, and each ten (10) days of failure to keep such records shall constitute a separate offense and subject the offender to additional penalties for each such period of failure to keep such records. Any person subject to the payment of said tax on sulphur failing to pay the tax levied in this Article within thirty (30) days after same is due and payable shall pay to the State as a penalty an additional amount equal to ten (10) per cent of the taxes due, and such tax and penalty shall draw interest at the rate of six (6) per cent per annum from the due date until paid. The Attorney General or any district or county attorney at the direction of the Attorney General shall bring suit in

behalf of the State to recover the amount of taxes, penalties, and interest past due and payable by any person affected by this law. The word "person" as used in this law shall include persons, firms, partnerships, companies, corporations, associations, common law trusts, or other concern by whatever name or howsoever organized, formed, or created.

The Comptroller may require such other information and such additional reports as he may deem advisable.

Said tax shall be in lieu of the tax imposed by Chapter 74, Acts, Fifth Called Session, Forty-first Legislature and House Bill No. 251, Chapter 212,¹ Section 1, Acts of the Regular Session of the Forty-second Legislature,² and by Acts, Forty-fourth Legislature, Third Called Session, Chapter 495, Article 4, Section 6,² and each and all of such Acts are hereby repealed, except as to the sulphur produced prior to the date this Act shall take effect, and the tax shall be paid on such sulphur so produced at the rate provided in such Act, and the taxes collected shall be allocated as therein provided, and all reports provided for in such Act shall be made to the Comptroller. No offense against, and no liability or penalty, either civil or criminal, incurred on account of a violation heretofore of any or all of the provisions of such Acts or any amendments thereof, shall be discharged or affected by this Act, but prosecutions and suits shall be instituted and proceeded with in all respects as if such Acts had not been repealed herein; and the procedure prescribed in such Acts or in any other applicable existing laws shall be followed in all prosecutions and suits, now pending or hereafter instituted on account of such offenses, or liabilities.

Sec. 2. The tax levied in this Article shall be allocated as hereinafter provided in this Act. Acts 1941, 47th Leg., p. 269, ch. 184, Art. III.

¹ Article 7066a.

² Article 7047, subd. 40a.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Lien of taxes, fines, penalties and interest, see article 7083b.

41. (a) Cement Distributors. There is hereby imposed a tax of two and one half (2 1/2) cents on the one hundred (100) pounds, or fractional part thereof, of cement on every person in this State manufacturing or producing in and/or importing cement into this State, and who thereafter distributes, sells or uses; provided, however, no tax shall be paid except on one sale, distribution or use. The person liable for said tax is hereby defined as a "distributor," to be allocated as hereinafter provided. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. XII, § 1.

Approved May 1, 1941.

Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

45. Repealed. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XI, § 1.

46. Occupation tax on production of lamp black.—Section 1. (a) There is hereby levied an occupation tax on every person, agent, receiver, trustee, firm, association, or copartnership manufacturing or producing carbon black in this State, such tax to be as follows:

1. On "Class A" carbon black said tax to be one hundred twenty-two twelve hundredths (122/1200) of one (1) cent per pound on all such carbon black produced or manufactured where the market value is four (4) cents per pound or less, and shall be four and one tenth (4.1) per cent of the value of all such carbon black produced or manufactured where the market value is in excess of four (4) cents per pound.

2. On "Class B" carbon black said tax to be thirty-one two hundred fortieths (31/240) of one (1) cent per pound on all such carbon black produced or manufactured where the market value is four (4) cents per pound or less, and shall be five and two tenths (5.2) per cent of the value

of all such carbon black produced or manufactured where the market value is in excess of four (4) cents per pound.

"Class A" carbon black as used in this Article means carbon black manufactured or produced by the use of less than two hundred (200) cubic feet of gas per pound of carbon black.

"Class B" carbon black as used in this Article means carbon black manufactured or produced by the use of more than two hundred (200) cubic feet of gas per pound of carbon black.

Should one (1) or more of the classifications herein be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then there is hereby levied on all carbon black manufactured or produced in this State a tax of one hundred twenty-two twelve hundredths ($122/1200$) of one (1) cent per pound on all carbon black produced or manufactured where the market value is four (4) cents per pound or less, and a tax of four and one tenth (4.1) per cent of the value of all carbon black produced or manufactured where the market value is in excess of four (4) cents per pound.

The market value of a particular type or grade of carbon black shall be the average sales price of that type or grade of all bona fide sales made during the month on which the tax is being paid less the cost of packing, freight, and cartage. If no carbon black of the particular type or grade has been sold during the month for which the tax is being paid then the actual market value of the same shall be the average sales price of that type or grade of all bona fide sales during the last preceding month in which a bona fide sale of that particular type or grade of carbon black was made, less packing, freight, and cartage.

(b) The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the 25th day of each succeeding month. On or before such date each person, agent, receiver, trustee, firm, corporation, association, or copartnership manufacturing or producing carbon black in this State shall file with the Comptroller of Public Accounts a report on a form prescribed by the Comptroller which report shall show the amount of carbon black manufactured or produced during the preceding month by said person, agent, receiver, trustee, firm, corporation, association, or copartnership. Such information shall be segregated according to grades and types of carbon black and the report shall show how much of each grade or type manufactured or produced by the person, agent, receiver, trustee, firm, corporation, association, or copartnership was actually manufactured or produced during the month on which the tax is being paid. The tax shall be computed on each grade or type reported separately by taking the rate of tax as imposed by Section (a) hereof after determining the actual market value as that term is defined therein of said grade or type and multiplying such rate against the amount of the particular type or grade of carbon black actually manufactured or produced during the month on which the tax is being paid. The tax is to be paid on all carbon black manufactured or produced during the month whether the same has been sold or not. The reports provided for herein shall contain such other information as the Comptroller of Public Accounts shall require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by such distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the

payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two (2) per cent thereof as penalty, and after the first twenty (20) days he shall forfeit an additional eight (8) per cent. Delinquent taxes shall draw interest at the rate of eight (8) per cent from due date. The State shall have a prior lien for all delinquent taxes, penalties, and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black.

(f) The term "carbon black" as herein used includes all black pigment produced in whole or in part from natural gas, casing-head gas or residue gas by the impinging of a flame upon a channel disk or plate, and the tax herein imposed shall reach all products produced in such manner.

(g) This tax is in lieu of the tax imposed by Section 7 of Article 4 of House Bill No. 8, Chapter 495, Acts, Third Called Session, Forty-fourth Legislature,¹ and such Section is hereby repealed, save and except as to all carbon black manufactured or produced prior to the effective date of this Act; and as to all taxes, penalties, reports, and liabilities due, effective or accruing prior to the effective date of this Act or by virtue of carbon black manufactured or produced prior to the effective date of this Act; and as to all of such carbon black so manufactured or produced and as to all such taxes, penalties, interest, reports, fines, forfeitures, liabilities, or duties and procedure in connection therewith such Section shall remain in full force and effect, and all taxes, fines, interest, penalties, obligations, reports, and duties owing or due to the State of Texas on the effective date of this Act or by virtue of carbon black manufactured or produced prior to the effective date of this Act and due by virtue of Section 7 of Article 4, Chapter 495, Acts, Third Called Session, Forty-fourth Legislature, shall remain and be valid and binding obligations to the State of Texas. Nothing in this Article or this Act shall prejudice the rights of the State of Texas in any lawsuit now pending or that may be brought hereafter, either by or against the State for or on account of the collection of any tax, fine, interest, or penalty that has accrued or may accrue by virtue of Section 7, Article 4, Chapter 495, Acts, Third Called Session, Forty-fourth Legislature.

Sec. 2. The tax levied in this Article shall be allocated as hereinafter provided in this Act.² Acts 1941, 47th Leg., p. 269, ch. 184, Art. XI

¹ Article 7047, subd. 45.

² See Article 7083a.

Approved May 1, 1941.
Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7047a. Occupation tax on stock exchanges

Allocations as made subject to appropriation by legislature, see article 7047b.

Art. 7047a—20. Comptroller of Public Accounts to collect occupation taxes

Section 1. The Comptroller of Public Accounts of the State of Texas is, from January 1, 1942, the effective date of this Act, authorized and required to collect, and all persons, firms, corporations, or associations

shall pay to the Comptroller of Public Accounts, all State occupation taxes levied upon any occupation or business by Article 7047, Revised Civil Statutes of Texas of 1925, and House Bill No. 514, Acts of 1931, Forty-second Legislature, page 447, Chapter 267,¹ and House Bill No. 20, Acts of 1927, Fortieth Legislature, page 324, Chapter 220,² any law or parts of laws to the contrary notwithstanding.

Rules and regulations

Sec. 2. The Comptroller of Public Accounts shall have the power and authority to make and publish rules and regulations, not inconsistent with any existing laws or with the Constitution of this State or of the United States, for the enforcement of the provisions of this Act and the collection of revenues hereunder.

Forfeiture for violation of rules and regulations

Sec. 3. If any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts or violate the same, he shall forfeit to the State the sum of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which if not paid shall be recovered in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas, or any other court having jurisdiction.

Certified claim as evidence

Sec. 4. If any person, firm, corporation, or association of persons engaging in or pursuing any occupation on which, under the laws of this State, an occupation tax is imposed, who fails or refuses to pay such tax, and it becomes necessary to intervene in any manner for the establishment of collection of said tax claims or penalties provided for under the laws of this State, in any judicial proceedings, a claim showing the amount of tax due the State, certified to by the Comptroller of Public Accounts or his chief clerk, shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided however, that the incorrectness of said claim may be shown.

Venue in civil suits

Sec. 5. Venue of any civil suit or other civil proceedings filed under the provisions of this Act shall be in a court of competent jurisdiction in Travis County, Texas, or in the county where the defendant in such proceedings has his domicile.

Venue in prosecutions

Sec. 6. Venue of a prosecution for violation of any provision of this Act shall be in Travis County, Texas, or in the county where the offense occurred.

Repeals; saving clause

Sec. 7. All laws and parts of laws in conflict herewith and requiring the Assessors-Collectors of the various counties of the State to collect State occupation taxes levied by Article 7047, Revised Civil Statutes of Texas of 1925, and House Bill No. 514, Acts of 1931, Forty-second Legislature, page 447, Chapter 267,¹ and House Bill No. 20, Acts of 1927, Fortieth Legislature, page 324, Chapter 220,² are hereby expressly repealed. Provided, however, that all occupation taxes, penalties, and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Tex-

as for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense.

Partial invalidity

Sec. 8. If any article, section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional. Acts 1941, 47th Leg., p. 1393, ch. 631.

1 Article 7047d and Pen.Code, art. 489a.

2 Article 7429a and Pen.Code, art. 1137a.

Approved and effective January 1, 1942.

Title of Act:

An Act requiring the Comptroller of Public Accounts to collect all State occupation taxes levied by Article 7047, Revised Civil Statutes of Texas of 1925, and House Bill No. 514, Acts of 1931, Forty-second Legislature, page 447, Chapter 267, and House Bill No. 20, Acts of 1927, Fortieth Legislature, page 324, Chapter 220; authorizing Comptroller of Public Accounts to make and publish rules and regulations; providing civil penalties for violation of such rules and regulations; fixing venue for civil proceedings; fixing venue of prosecution for violation of the Act; providing that claim for occupation taxes, certified to by Comptroller or his chief clerk, shall be

prima facie evidence of the contents thereof; repealing all laws or parts of laws in conflict therewith; providing that passage of the Act shall not affect offenses committed or prosecutions begun under pre-existing law; providing that all occupation taxes, penalties, and interest accruing to the State of Texas by virtue of any re-enacted or repealed provision as set out in the Act shall be an obligation to the State of Texas; providing that if any portion of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of the Act; and declaring an emergency. Acts 1941, 47th Leg., p. 1393, ch. 631.

Art. 7047b. Tax on producers of natural gas; market value; payment

Sec. 1. (1) There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

A tax shall be paid by each producer on the amount of gas produced within this State, and on the amount of gas produced in another State and imported into this State upon the first sale thereof in intrastate commerce, equivalent to five and two tenths (5.2) per cent of the market value of all gas including casing-head gas produced and saved within this State, and of all gas sold if produced in another State and imported into this State, at the market value thereof, as and when produced, or as and when imported.

The market value of gas produced in another State and imported into this State shall be the average value at the mouth of the well of like gas sold within this State as revealed by reports made to the Comptroller for the quarter immediately preceding the quarter in which such gas was imported and sold. Provided, however, that the amount of the tax on sweet and sour natural gas shall never be less than eleven one hundred fiftieths (11/150) of one (1) cent per one thousand (1,000) cubic feet on sweet and sour natural gas sold or produced and saved in this State, and not thereafter lawfully injected into the earth in the State of

Texas, for the following purposes: (a) storage thereof; (b) recycling; (c) repressuring; (d) lifting oil and not thereafter; (e) lawfully vented or flared in connection with the production of oil.

The market value of gas produced in this State shall be the value thereof plus any bonus, or premium, or anything of value paid therefor, or any sum of money that such gas will reasonably bring if produced and sold in accordance with the laws, rules and regulations of this State, provided that notwithstanding any other provision herein to the contrary, where gas is processed for its liquid hydrocarbon content and the residue gas is returned by recycling methods to the same gas-producing formation underlying the land from which the gas is produced, the taxable value of such gas shall be three fifths ($3/5$) of the gross value of all products extracted, separated and saved from such gas.

In case gas is sold for cash the tax shall be computed on the producers' gross receipts of such sale; and in case the whole or a part of the consideration for the sale of gas is any portion of the products extracted from such gas, the tax shall be computed on the gross value of the products received plus all other things of value received by the producer, except in case of gas processed by recycling operations.

In determining the market value of gas for the purpose of computing the tax due, there shall be excluded the value of residue gas lawfully injected into the earth in the State of Texas for the following purposes: (a) storage thereof; (b) repressuring; (c) lifting oil; and also (d) gas lawfully vented or flared in connection with the production of oil; save and except however, if any gas so injected into the earth is sold for such purposes, then the market value of the gas so sold shall not be excluded in computing the tax. All liquid hydrocarbons that are recovered from gas by means of a separator or by other nonmechanical methods shall be taxed at the same rate as oil as levied by Article I of this Act.

(2) The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of each such producer to keep accurate records in Texas of all gas produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of gas shall pay the tax on all gas purchased and deduct the tax so paid from the payment due the producer or other interest holders, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer; such moneys so deducted from payments due producers for the payment of this tax shall be held by the purchaser in trust for the use and benefit of the State of Texas and shall not be commingled with any other funds held by said purchaser, and shall be remitted to the State Treasurer in accordance with the terms and provisions of this Article.

(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all gas produced during the calendar month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment and shall be entitled to reasonable attorney's fees and court costs incurred by such legal action.

(5) Provided, that unless such payment of tax on all gas produced during any month or fractional part thereof shall be made on or before

the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten (10) per cent of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six (6) per cent per annum from date due until date paid.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests; and producers and/or purchasers of gas are hereby authorized and required to withhold from any payment due interested parties the proportionate tax due and remit the same to the Comptroller.

Definitions

Sec. 2. (1) For the purpose of this Act "producer" shall mean any person owning, controlling, managing, or leasing any gas well and/or any person who produces in any manner any gas by taking it from the earth or waters in this State, and shall include any person owning any royalty or other interest in any gas or its value whether produced by him, or by some other person on his behalf, either by lease, contract, or otherwise.

(2) "First purchaser" shall mean any person purchasing gas from the producer.

(3) "Subsequent purchaser" shall mean any person who purchases gas for any purpose whatsoever, when said gas is purchased from any person other than the producer.

(4) "Carrier" shall mean the owner, operator, or manager of any means of transporting gas or any instrumentality that may now be used or come into use for such purpose.

(5) "Gas" shall mean natural and casing-head gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate and/or condensate, or other product.

(6) The term "sweet gas" shall mean all natural gas except sour gas and casing-head gas.

(7) The term "sour gas" shall mean any natural gas containing more than one and one half (1 1/2) grains of hydrogen sulphide per hundred (100) cubic feet, or more than thirty (30) grains of total sulphur per one hundred (100) cubic feet.

(8) The term "casing-head gas" shall mean any gas and/or vapor indigenous to an oil stratum and produced from such stratum with oil.

(9) "Report" shall mean any report required to be furnished in this Act or that may be required by the Comptroller in the administration of this Article.

(10) "Person" shall include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as the trustees acting under such declarations of trust.

(11) "Production" or "total gas produced" shall mean the total gross amount of gas produced including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this Article shall be measured or determined by meter readings showing one hundred (100) per cent of the full volume expressed in cubic feet.

(12) For the purpose of this Article, by the term "cubic foot of gas" is meant volume of gas expressed in cubic feet and computed at a base pressure of four (4) ounces per square inch above the average barometric pressure of fourteen and four tenths (14.4) pounds per square inch, a standard base and flowing temperature of sixty (60) degrees Fahrenheit; correction to be made for pressure according to Boyle's Law, and for specific gravity according to test made by the balance method.

(13) "Royalty owners" shall mean and include all persons owning any mineral rights under any producing leasehold within this State, other than the working interest, which working interest is that of the person having the management and operation of the well.

(14) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

Liability for tax; payment

Sec. 2a. (1) The tax herein imposed on the producing of gas shall be the primary liability of the producer as hereinbefore defined, and every person purchasing gas from producer thereof and taking delivery thereof at or near the premises where produced shall collect said tax imposed by this Article from the producer. Every purchaser including the first purchaser and the subsequent purchaser, required to collect any tax under this Article, shall make such collection by deducting and withholding the amount of such tax from any payments made by such purchaser to the producer, and remit same as herein provided. This Section shall not affect any pending lawsuit in the State of Texas or any lease agreement or contract now or that hereafter may be in effect between the State of Texas or any political subdivision thereof and/or the University of Texas and any gas producer.

(2) When it shall appear that a taxpayer to whom the provisions of this Article shall apply has erroneously paid more taxes than were due during any taxpaying period either on account of a mistake of fact or law, it shall be the duty of the State Comptroller to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid.

(3) The tax hereby levied shall be a liability upon the producer, the first purchaser, and/or subsequent purchaser or purchasers as herein provided.

(4) The tax hereby levied shall be paid by the first purchaser purchasing the same from the producer, who shall deduct the same from the amount paid producer, as aforesaid, provided, however, that the failure of first purchaser to pay said tax shall not relieve the producer from the payment of same, nor shall it relieve any subsequent purchaser from the payment of same, where the first purchaser does not account for and pay said tax, and it shall be the duty of every person purchasing gas produced in Texas to satisfy himself or itself that the tax on said gas has been or will be paid by the persons primarily liable therefor.

Verifying reports; investigations; rules and regulations; expenses of enforcement to be paid from ½ of 1% of tax collected

Sec. 3. The Comptroller shall employ auditors and/or other technical assistants for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Article, and any other premises necessary in determining the correct tax liability, and to examine, or cause to be examined, any books, or records of any person, subject to a tax under this Article, and to secure any other information directly or indirectly concerned in the enforcement of this Article; and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Article, which shall have the full force and effect of law. Before any division or allotment of the occupation tax collected under the provisions of this Article is made, one half (1/2) of one (1) per cent of the gross amount of said tax shall be set aside in the Treasury for the use of the Comptroller in the administration and enforcement of the provisions of this Article; and so much of the

said proceeds of one half (1/2) of one (1) per cent of the occupation tax paid monthly as may be needed in such administration and enforcement is hereby appropriated for such purpose, subject however to appropriation by the Legislature.

Delinquent taxes; injunction against producing gas

Sec. 4. In the event any person engaged in the business of producing any gas in this State shall become delinquent in the payment of the proper taxes herein imposed, or fails to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person from producing gas until the delinquent tax is paid or said reports are filed, and the venue of any such suit for injunction is hereby fixed in the county where the offense occurs.

Penalty for violation; lien; suits

Sec. 5. If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than One Hundred Dollars (\$100) for each violation and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties, and interest on all property and equipment used by the producer of gas in his business of producing gas, and if any producer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the producer of gas shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in a gas audit fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said gas audit fund are hereby appropriated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County.

Suit to collect tax; report or audit as evidence; report of transfer of lease; removing gas from lease

Sec. 6. (a) If any producer or purchaser of natural and/or casing-head gas fails or refuses to pay any tax, penalty, or interest within the time and manner provided by this Article and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such producer or purchaser or representative of said producer or purchaser or a certified copy thereof certified to by the Comptroller of Public Accounts showing the amount of gas produced on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said producer or purchaser when filed and sworn to by such representative as being made from the records of said producer or purchaser, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown; provided further, that such report or audit may be admitted in evidence only against the party by or from whom it was made.

(b) In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said producer or purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid; that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

(c) On notice from the State Comptroller, it shall be unlawful for any person to produce or remove any natural and/or casing-head gas from any lease in this State whenever the owner or operator of said lease has failed to file reports as required under the provisions of this Article.

(d) Whenever any lease producing natural and/or casing-head gas changes hands, it shall be the duty of the owner or operator of said lease to note on his last report that said lease has been sold or transferred, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, or receiver who will operate said lease and be responsible for the filing of reports provided for in this Article. It further shall be the duty of the new owner or operator of said lease to note on his first report that said lease has been acquired, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, or receiver formerly owning and/or operating said lease.

Gas imported into state

Sec. 8. Should the provision herein with reference to the basis to be used in calculating the tax on gas imported into this State be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then there is hereby levied on all gas imported into this State a tax of five (5) per cent of the market value of said gas based upon the first sale of said gas within this State.

Allocation of tax

Sec. 9. The tax herein levied shall be allocated as hereinafter provided in this Act.¹ As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. II, § 1.

¹ See Article 7083a.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Section 7 of Acts 1931, 42nd Leg., p. 111, ch. 73, as amended by Acts 1941, 47th Leg., p. 269, ch. 184, Art. II, § 1, being a

penal provision, is published as Vernon's Rev. Pen. Code, art. 131a.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7047c—1. Cigarette Tax; definitions

Comptroller to collect tax and penalties; rules and regulations

Sec. 24. (a) It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes and penalties that may be due under the provisions of this Act, and to that end the Comptroller is hereby vested with all of the power and authority conferred by this Act. Said Comptroller also shall have the power and authority to make and publish rules and regulations, not inconsistent with this Act or the other laws or the Constitution of this State, or of the United

States, for the enforcement of the provisions of this Act and the collection of revenues hereunder.

(b) The Treasurer may promulgate rules and regulations hereunder providing for the refund on stamps which by reason of damage become unfit for sale or use.

(c) The Treasurer shall promulgate rules and regulations providing for the exchange, or replacement without cost, of new stamps for any stamps affixed to any package of cigarettes, which cigarettes have become unfit for use or consumption, or unsalable, and which cigarettes have been destroyed or returned to the manufacturer, upon proof satisfactory to the Treasurer that such cigarettes have become unfit for use or consumption, or unsalable, and have been destroyed or returned to the manufacturer. As amended Acts 1941, 47th Leg., p. 129, ch. 101, § 1.

Filed without the Governor's signature,
April 7, 1941.

Effective April 14, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

Allocation of revenue from taxes collected hereunder, see article 7083a.

Art. 7047c—3. Cigarette tax inapplicable to sales to or by United States military or naval posts, camps, or exchanges

Section 1. Post, Camp, or Unit Exchanges established and operated within the State of Texas, by or in conjunction with the United States Military, Naval or Marine forces, on Military, Naval or Marine Posts, Camps, Stations or Reservations, including any locality within this State where a cantonment camp is located and erected, where officers, soldiers, sailors, nurses, or marines of the United States Army, Navy or Marine Corps are being trained, are hereby declared to be, and are recognized for such tax purposes as are hereinafter set out to be instrumentalities and agencies of the United States Government.

Sec. 2. It is further provided that the provisions of this law shall extend to and apply to any authorized branch of a post, camp or unit exchange which may be established for the exclusive benefit of the officers, soldiers, sailors, nurses or marines in the Army, Navy or Marine Corps of the United States at any time that said officers, soldiers, sailors, nurses or marines shall be on authorized military maneuvers. It being the express intent of the Legislature by this Act to allow soldiers, sailors, nurses and marines in the Army, Navy and Marine Corps of the United States, to purchase cigarettes, from the camp, unit, or post exchange without paying the state stamp tax thereon. It is also expressly provided that this law shall not be construed as authorizing any person or persons whatsoever, other than those persons authorized by Federal Law and Army, Navy or Marine Corps regulations to purchase cigarettes from a camp, unit, or post exchange, or on authorized military maneuvers without paying the state stamp tax as provided by law thereon.

Sec. 3. It is further provided that no officers, soldiers, sailors, nurses or marines, in the Army, Navy, or Marine Corps of the United States shall remove from the confines of any military or naval post or reservation cigarettes in quantities of more than forty (40) cigarettes or shall resell or distribute to any person, persons, firm or corporation any cigarettes in quantities of more than forty (40) cigarettes which have been purchased from a camp, post, or unit exchange under the provisions of this Act. Any person, firm, or corporation who knowingly removes from such reservations any cigarettes or purchases or receives any cigarettes in violation of this provision shall be subject to the penalties provided in this law. The possession of more than forty (40) cigarettes by any of the foregoing named persons without the state tax stamp affixed thereto

at any place in Texas other than a military or naval post or reservation shall be a violation of this Act and shall be prima facie evidence that such cigarettes are possessed for the purpose of a sale in Texas without the state tax stamps affixed.

Sec. 4. It is further recognized, declared and provided that the provisions of Section 2, Chapter 241, Acts of the Regular Session of the 44th Legislature, with amendments,¹ relating to "first sale" of cigarettes does not apply to sales by such post, camp or unit exchanges under the conditions specified in the preceding sections of this law or to sales in accordance with such specified conditions to such post, camp or unit exchanges by a licensed cigarette distributor in Texas.

Sec. 5. Any person, firm, or corporation violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by fine of not less than One Hundred (\$100.00) Dollars, or thirty (30) days in jail, nor more than Five Hundred (\$500.00) Dollars, or six (6) months in jail, or by both such fine and imprisonment. Each violation of any of the provisions of this Act shall be considered a separate offense.

Sec. 6. If any section, sentence, clause, or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, sentence, clause, and part thereof despite the fact that one or more sections, sentences, clauses, or parts thereof be declared unconstitutional. Acts 1941, 47th Leg., p. 25, ch. 14.

¹ Article 7047c—1.

Approved and effective Feb. 25, 1941.

Section 7 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act to declare and recognize for certain tax purposes post, camp or unit exchanges established and operated within the State of Texas, by or in conjunction with the United States Military, Naval, or Marine Forces, instrumentalities and agencies of the United States; providing that taxes on sale of cigarettes shall not apply to sales to or by such post, camp or unit exchanges where made to officers, soldiers, sailors, nurses, and marines, in the Army, Navy, or Marine Corps of the United States; providing at what places, and under what conditions sales may be made to officers, soldiers, sailors, nurses,

and marines of the United States; prohibiting removal of cigarettes from Federal reservation or the resale and distribution of cigarettes purchased from exchanges in amounts of forty (40) cigarettes or more, which were originally procured from camp, unit or post exchanges; prohibiting the purchase of such cigarettes in violation of this Act; making possession of more than forty (40) cigarettes by persons named in this Act prima facie violation; providing a penalty for violation of this Act by making it a misdemeanor, and declaring each violation to be a separate offense; providing a "savings clause" to the effect that if any provision of this Act shall be held invalid or unconstitutional the other provisions shall not be affected, and declaring an emergency and for other purposes. Acts 1941, 47th Leg., p. 25, ch. 14.

Art. 7047e. Repealed. Acts 1941, 47th Leg., p. 723, ch. 449, § 1. Eff. 90 days after July 3, 1941, date of adjournment

Article 7047e, prior to its repeal, was amended by Acts 1941, 47th Leg., p. 27, ch. 16, § 1, effective March 3, 1941, to read as follows:

"(a) Except as herein otherwise provided, there is hereby levied and assessed a tax of ten (10¢) cents on each One Hundred (\$100.00) Dollars or fraction thereof, over the first Two Hundred (\$200.00) Dollars, on all notes and obligations secured by chattel mortgage, deed of trust, mechanic's lien contract, vendor's lien, conditional sales contract and all instruments of a similar

nature which are filed or recorded in the office of the County Clerk under the Registration Laws of this State; provided that no tax shall be levied on instruments securing an amount of Two Hundred (\$200.00) Dollars, or less. After the effective date of this Act, except as hereinafter provided, no such instrument shall be filed or recorded by any County Clerk in this State until there has been affixed to such instrument stamps in accordance with the provisions of this section; providing further that should the instrument filed in the office of the

County Clerk be security of an obligation that has property pledged as security in a State or States other than Texas, the tax shall be based upon the reasonable cash value of all property pledged in Texas in the proportion that said property in Texas bears to the total value of the property securing the obligation; and providing further, that except as to renewals or extensions of accrued interest, the provisions of this section shall not apply to instruments given in renewal or extensions of instruments therefore stamped under the provisions of this Act or the one amended hereby, and shall not apply to instruments given in the refunding of existing bonds or obligations where the preceding instrument of security was stamped in accordance with this Act, or the one amended hereby; provided further that the tax levied in this Act shall apply to only one instrument, the one of the greatest denomination, where several instruments are contemporaneously executed to secure one obligation; and provided further that when once stamped as provided herein, an instrument may be recorded in any number of Counties in this State without again being so stamped. This section shall not apply to instruments, notes, or other obligations taken by or on behalf of the United States or of the State of Texas, or any corporate agency or instrumentality of the United States, or of the State of Texas, in carrying out a governmental purpose as expressed in any Act of the Congress of the United States or of the Legislature of the State of Texas, nor shall this section apply to instruments, notes or other obligations taken by or on behalf of National Banking Associations organized under the laws of the United States, nor instruments, notes or other obligations taken by or on behalf of State Banking Corporations of the State of Texas created under Title 16 of the Revised Civil Statutes of Texas, nor shall the provisions of this section apply to obligations or instruments secured by liens on crops and farm or agricultural products, or to livestock or farm implements, or on abstract of judgment.

"If the amount secured by an instrument is not expressed therein, or if any part of the security described in any such instrument appears to be located without the State of Texas, the County Clerk shall require proof by written affidavits of such facts as may be necessary to determine the amount of the tax due.

"(b) Payment of the tax as hereby levied shall be evidenced by affixing the stamps herein provided for, to all instruments included within the provisions of the Act; and it shall be the duty of the State Treas-

urer at all times to keep a supply of such stamps on hand for sale to any person upon demand and payment therefor, and the State Treasurer shall at the request of any County Clerk of the State of Texas consign said stamps to the different County Clerks. The stamps shall be of such design and denomination as to the State Treasurer shall seem proper, and shall show the amount of the tax the payment of which is evidenced thereby, and shall contain the words "Note Stamps". The County Clerks of Texas shall keep a supply of such stamps on hand in their office for sale to any person, upon demand and payment therefor, and shall remit all moneys received from the sale of such stamps, except as hereinafter provided, to the State Treasurer at any time when requesting additional stamps from the State Treasurer; provided that if the County Clerk does not order additional stamps and remit said moneys on or before the 25th day of each month, he shall make remittance of any moneys on hand, except as hereinafter provided, from the sale of such stamps, not later than the 25th day of each month, irrespective of whether or not such clerk orders additional stamps; providing further, that each County Clerk shall be entitled to retain as fees of office for handling said stamps, five (5%) per cent of the amount of money received from the sale of such stamps, provided such fee for any one calendar month shall not exceed One Hundred (\$100.00) Dollars; said five (5%) per cent to be retained by the County Clerk when remitting to the State Treasurer as above provided; providing further that the County Clerks shall be liable under their official bonds for the faithful performance of their duties and the remittance of moneys to the State Treasurer, from the sale of stamps as herein provided. The State Treasurer shall be responsible for the custody of said stamps and shall demand such receipt as he deems necessary from the County Clerks upon consignment of stamps to the County Clerks as herein provided; and said State Treasurer shall be liable for the proceeds received by him under his official bond. The State Treasurer shall from time to time deduct enough money from the proceeds received from the sale of stamps to pay for the printing of said stamps, and the mailing of said stamps to the County Clerks, said money to be deducted by the State Treasurer before allocating the funds received from the sale of said stamps. The State Treasurer shall assist the County Clerks of the State in determining what instruments are subject to the tax as provided in this Act."

Art. 7047j. Injunctions against collection of excise, occupation, and certain other taxes, fees, and penalties

Motor fuel tax, bond in lieu of payment into suspense account before bringing injunction suit, see article 7065b—18.

Art. 7047k. Motor vehicle retail sales tax

Section 1. (a) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to one (1) per cent of the total consideration paid or to be paid to the seller by the buyer, which consideration shall include the amount paid or to be paid for said motor vehicle and all accessories attached thereto at the time of the sale, whether such consideration be in the nature of cash, credit, or exchange of other property, or a combination of these. In the event the consideration received by the seller includes any tax imposed by the Federal Government, then such Federal tax shall be deducted from such consideration for the purpose of computing the amount of tax levied by this Article upon such retail sale.

(b) In all cases of retail sales involving the exchange of motor vehicles, the party transferring the title to the motor vehicle having the greater value shall be considered the seller, and no tax is imposed upon the transfer of a motor vehicle traded in upon the purchase price of some other motor vehicle.

Sec. 2. There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside of this State and brought into this State for use upon the public highways thereof by a resident of this State or by firms or corporations domiciled or doing business in this State. Such tax shall be equal to one (1) per cent of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm, or corporation operating said motor vehicle upon the public highways of this State.

Sec. 3. (a) The term "sale" or "sales" as herein used shall include instalment and credit sales, and the exchange of property, as well as the sale thereof for money, every closed transaction constituting a sale. The transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

(b) The term "retail sale" or "retail sales" as herein used shall include all sales of motor vehicles except those whereby the purchaser acquires a motor vehicle for the exclusive purpose of resale and not for use.

(c) The term "motor vehicle" as herein used shall mean every self-propelled vehicle in, or by which, any person or property is or may be transported upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks; but this definition shall not include tractors used exclusively to pull farm machinery or road-building machinery.

Sec. 4. The license fees and taxes imposed by or under this Article shall be in addition to any and all license fees and taxes imposed by or under any other law of this State.

Sec. 5. The taxes levied in this Article shall be collected by the Assessor and Collector of Taxes of the county in which any such motor vehicle is first registered or first transferred after such a sale; the Tax Collector shall refuse to accept for registration or for transfer any motor vehicle until the tax thereon is paid.

When a tax becomes due on a motor vehicle purchased outside of this State and brought into this State for use upon the highways, the person, firm, or corporation operating said motor vehicle upon the public highways of this State shall pay the tax imposed by Section 2 to the Tax Collector of the county in which such motor vehicle is to be registered. The tax shall be paid at the time application is made for regis-

tration of said motor vehicle, and the Tax Collector shall refuse to issue the registration license until the tax is paid.

Sec. 5a. At the time the tax herein levied is paid to said Tax Collector the purchaser shall file with said Tax Collector the affidavit of such purchaser (or if a corporation the affidavit of the President, Vice President, Secretary, or Manager) setting forth the then value in dollars of the total consideration received or to be received by such seller or his nominee, whether in money or other thing of value.

Sec. 6. The Tax Collector shall issue a receipt to the person paying taxes prescribed hereunder, making two duplicate copies of said receipt, the form of said receipt to be prescribed by the Comptroller of Public Accounts. Between the 1st and 15th of April, July, October and January, the Tax Collector shall forward ninety-eight (98) per cent of the money collected hereunder during the preceding three (3) months to the Comptroller of Public Accounts, together with one duplicate copy of each of the receipts issued by him to persons paying the tax to the Collector. He shall retain the other duplicate receipt as a permanent record in his office together with two (2) per cent of the money collected as fees of office, or paid into the officers salary fund of the county as provided by general law.

Sec. 7. If any person shall knowingly operate any motor vehicle, such as defined in this Article, upon the highways of this State without the tax thereon having been paid as herein levied and provided, he shall be deemed guilty of a misdemeanor and punished by a fine of not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500), or confined in the county jail for not less than one (1) day nor more than thirty (30) days or by both such fine and imprisonment.

Sec. 8. The taxes levied in this Article shall be allocated as hereinafter provided in this Act.¹ Acts 1941, 47th Leg., p. 269, ch. 184, Art. VI.

¹ See Article 7083a.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7047l. Radios, cosmetics, cards; luxury excise tax; penalty for making false report or failure to report

Section 1. Each person, partnership, association, or corporation selling at retail new radios or new cosmetics, shall make quarterly on the first days of January, April, July, and October of each year, a report to the Comptroller, under oath of the owner, manager, or if a corporation, an officer thereof, showing the aggregate gross receipts from the sale of any of the above-named items for the quarter next preceding; and shall at the same time pay to the Comptroller a luxury excise tax equal to two (2) per cent of said gross receipts as shown by said report.

Every person, partnership, association, or corporation, selling at retail, playing cards shall make quarterly report as provided above showing the total number of packs or decks of such cards sold during the preceding quarter, and shall at the same time pay to the Comptroller a luxury excise tax of five (5) cents per pack or deck of such playing cards so sold.

Nothing herein shall be construed so as to require payment of the tax on gross receipts herein levied more than once on the proceeds of the sale of the same article of merchandise. A retail sale as used herein, means a sale to one who buys for use or consumption, and not for resale. Gross receipts of a sale means the sum which the purchaser pays, or agrees to pay for an article or commodity bought at retail sale.

Section 1a. 1. The term "new" as used in this Article in connection with the terms "radios" and "cosmetics" shall mean those cosmetics or radios not theretofore sold at retail to the consumer.

2. The term "cosmetics" as used in this Article means: rouge (liquid, semi-solid or solid), lipstick (liquid, semi-solid or solid), face powder, face creams (including cleansing, foundation, vanishing, massage or any other similar cream to be used on the skin), lotions (hand, face, and skin, including astringents), nail polish (all kinds) and manicuring preparations, eyelash preparations, eyebrow pencils, eye shadowing preparations, hair oil, hair tonic and other hair preparations; but such shall not include soap (liquid, semi-solid or solid) nor any prescription prescribed for a particular individual by a physician regularly licensed and practicing in the State of Texas when such prescription is filed with and filled by a pharmacist.

3. The term "playing cards" is defined to be a deck or pack containing at least fifty-two (52) cards of four (4) suits, commonly known as spades, hearts, diamonds, and clubs, and each such suit containing an ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, and deuce, such deck sometimes including a fifty-third or extra card, commonly known as the joker. Added Acts 1941, 47th Leg., p. 652, ch. 394, § 1.

Approved and effective May 31, 1941. should take effect from and after its passage.
Section 2 of the Act of 1941 declared an emergency and provided that the Act

Sec. 2. The Comptroller shall make such rules and regulations and require such reports as will enable him to efficiently collect the tax hereby levied, and shall, upon reasonable notice have access to any books, records, and accounts the examination of which he deems necessary to enable him to determine the amount of taxes due hereunder, and the correctness of any report filed with him pursuant to the requirements of the preceding section.

Sec. 3. If any person, partnership, association, or corporation shall fail to pay any tax due under this Article, or shall fail to make the reports herein required, such default shall be reported to the Attorney General of Texas, and he shall institute appropriate legal action to enforce the payment of such taxes, and may enjoin the defendant from the sale of any of the articles of merchandise mentioned in Section 1 of this Article until the tax determined to be due has been paid, such remedy to be in addition to other remedies available to the State for the collection of any debt due it.

Sec. 4. If any person, either for himself or on behalf of a partnership, association, or corporation shall knowingly make a false report to the Comptroller with reference to gross receipts from the sale of any of the articles of merchandise mentioned in Section 1 of this Article, he shall be deemed guilty of perjury, and upon conviction shall be punished by imprisonment in the penitentiary for a term not less than one (1) nor more than three (3) years.

Sec. 5. If any person, partnership, association, or corporation shall, after a written notice from the Comptroller, refuse and fail to make the report required in Section 1 hereof within thirty (30) days from the receipt of such notice, such person, partnership, association, or corporation shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty Dollars (\$50) nor more than One Thousand Dollars (\$1,000).

Sec. 6. The Comptroller is hereby authorized to set aside a special fund of two (2) per cent of the amount collected under the provision of this Article so much thereof as may be necessary to be used by him in

the enforcement of this law, provided, however, that should the Legislature make detailed appropriations from such fund for enforcement purposes such appropriation shall control.

Sec. 7. The taxes levied in this Article shall be allocated as hereinafter provided in this Act.¹ Acts 1941, 47th Leg., p. 269, ch. 184, Art. X.

¹ See Article 7083a.

Approved May 1, 1941.
Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7047m. Stock transfer and sales tax—Tax imposed; affixing stamps; memorandum of sale

Section 1. There is hereby imposed and levied a tax as hereinafter provided on all sales, agreements to sell, or memoranda of sales, and all deliveries or transfers of shares, or certificates of stock, or certificates for rights to stock, or certificates of deposit representing an interest in or representing certificates made taxable under this Section in any domestic or foreign association, company, or corporation, or certificates of interest in any business conducted by trustee or trustees made after the effective date hereof, whether made upon or shown by the books of the association, company, corporation, or trustee, or by any assignment in blank or by any delivery of any papers or agreement or memorandum or other evidence of sale or transfer or order for or agreement to buy, whether intermediate or final, and whether investing the holder with the beneficial interest in or legal title to such stock or other certificate taxable hereunder, or with the possession or use thereof for any purpose, or to secure the future payment of money or the future transfer of any such stock, or certificate, on each hundred dollars of face value or fraction thereof, three (3) cents, except in cases where the shares or certificates are issued without designated monetary value, in which case the tax shall be at the rate of three (3) cents for each and every share. It shall be the duty of the person or persons making or effectuating the sale or transfer to procure, affix, and cancel the stamps and pay the tax provided by this Article. It is not intended by this Article to impose a tax upon an agreement evidencing the deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon such certificates so deposited, nor upon transfers of such certificates to the lender or to a nominee of the lender or from one nominee of the lender to another, provided the same continue to be held by such lender or nominee or nominees as collateral security as aforesaid, nor upon the retransfer of such certificates to the borrower, nor upon transfers of certificates from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, provided the same continue to be held by such nominee or nominees for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, nor upon mere loans of stock or certificates, or the return thereof, nor upon deliveries or transfers to a broker for sale, nor upon deliveries or transfer by a broker to a customer for whom and upon whose order he has purchased the same, but transfers to the lender, or to a nominee or nominees as aforesaid, or retransfers to the borrower or fiduciary, and deliveries or transfers to a broker for sale, or by a broker to a customer for whom and upon whose order he has purchased the same shall be accompanied by a certificate setting forth the facts, nor in respect to shares or certificates of stock, or certificates of rights to stocks, or certificates of deposit representing certificates of the character taxed by this Article, in any domestic association, company, or corporation, if neither the sale, nor the order for, nor agreement to buy, nor

the agreement to sell, nor the memorandum of sale, nor the delivery is made in this State and when no act necessary to effect the sale or transfer is done in this State. The payment of such tax shall be denoted by an adhesive stamp or stamps affixed as follows: In the case of a sale or transfer, where the evidence of the transaction is shown only by the books of the association, company, corporation, or trustee, the stamp shall be placed upon such books, and it shall be the duty of the person making or effectuating such sale or transfer to procure and furnish to the association, company, corporation, or trustee the requisite stamps, and of such association, company, corporation, or trustee to affix and cancel the same. Where the transaction is effected by the delivery or transfer of a certificate the stamp shall be placed upon the surrendered certificate and canceled; and in cases of an agreement to sell, or where the sale is effected by delivery of the certificate assigned in blank, there shall be made and delivered by the seller to the buyer, a bill or memorandum of such sale, to which the stamp provided for by this Article shall be affixed and canceled, provided, however, that such bill or memorandum may be made in duplicate and the stamp provided for by this Article may be affixed to a duplicate of such bill or memorandum and canceled, and such duplicate of such bill or memorandum may be kept by the party making such sale in his possession, provided that he shall enter upon the original of such bill or memorandum a date and number showing that such bill or memorandum was made in duplicate and that the stamp was affixed to the duplicate thereof retained by the seller. Every such bill or memorandum of sale or agreement to sell shall show the date of the transaction which it evidences, the name of the seller, the stock, or other certificate, to which it relates, and the number of shares thereof. All such bills or memoranda of sale shall bear a number upon the face thereof and no more than one such bill or memorandum of sale made by the seller on any given day shall bear the same number. The aforesaid identification number of the bill or memorandum of sale shall in all cases be entered and recorded in a book of account.

Stamps, preparing; sale

Sec. 2. Adhesive stamps for the purpose of paying the State tax provided for by this Article shall be prepared by the Comptroller in such form, in such denomination and in such quantities as he may from time to time prescribe. He shall make provision for the sale of such stamps. The County Clerk of each county of the State of Texas is hereby made the agent for the Comptroller of Texas for the purpose of making sale of such stamps under such regulations as may be prescribed by the Comptroller.

Penalty for violations

Sec. 3. Any person or persons liable to pay the tax by this Article imposed, and anyone who acts in the matter as agent or broker for such person or persons, who shall make any sale, transfer, or delivery of shares or certificates taxable under this Article without paying the tax by this Article imposed, and any person who shall in pursuance of any sale, transfer, or agreement, deliver any certificate or evidence of the sale or transfer of or agreement to sell any such certificate, or bill, or memorandum thereof, or who shall transfer or cause the same to be transferred upon the books or records of the association, company, corporation, or business conducted by a trustee or trustees, whose stock or other certificates taxable hereunder is sold or transferred, which shall transfer or cause the same to be transferred upon its books, without having the

stamps provided for in this Article affixed thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1000), or be imprisoned for not more than six (6) months or by both such fine and imprisonment.

Initialing and perforating stamps; violations

Sec. 4. In every case where an adhesive stamp shall be used to denote the payment of the tax provided by this Article, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, and shall cut or perforate the stamp in a substantial manner, so that such stamp cannot be again used; and if any person makes use of an adhesive stamp to denote the payment of the tax imposed by this Article, without so effectually canceling the same, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500), or be imprisoned for not less than six (6) months, or both.

Removing or altering the canceling marks of stamps

Sec. 5. Any person who shall wilfully remove or alter or knowingly permit to be removed or altered the canceling or defacing marks of any stamp provided for by this Article with intent to use such stamp, or who shall knowingly or wilfully buy, prepare for use, use, have in his possession or suffer to be used any washed, restored or counterfeit stamp, and any person who shall intentionally remove or cause to be removed or knowingly permit to be removed any stamp, affixed pursuant to the requirements of this Article, shall be guilty of a misdemeanor and on conviction thereof shall be liable to a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1000), or be imprisoned for not more than one (1) year, or by both such fine and imprisonment.

Book of account; stock certificate book; evidence of payment of tax; examination of books; penalty for violation

Sec. 6. Every person, firm, company, association, corporation, or business conducted by a trustee or trustees, engaged in whole or in part in the making or negotiating of sales, agreements to sell, deliveries or transfers of shares or certificates taxable under this Article, or conducting or transacting a brokerage business, shall keep or cause to be kept at some accessible place within the State of Texas, a just and true book of account, in such form as may be prescribed by the Comptroller, wherein shall be plainly and legibly recorded in separate columns, the date of making every sale, agreement to sell, delivery or transfer of such shares or certificates, the name and the number of shares thereof, the face value, the name of the seller or transferrer, the name of the purchaser or transferee, the face value of the adhesive stamps affixed and the identifying number of the bill or memorandum of sale used as provided for herein. This book shall also have recorded therein each separate purchase of stock transfer stamps, showing the date, the amount and from whom purchased.

Every association, company, or corporation, or business conducted by a trustee or trustees shall keep or cause to be kept at some accessible place within the State of Texas a stock certificate book and a just and true book of account, transfer ledger or register, in such form as may be prescribed by the Comptroller, wherein shall be plainly and legibly recorded in separate columns the date of making every transfer of stock, or other

certificates included within this Article, the name and the number of shares thereof, the serial number of each surrendered certificate, the name of the parties surrendering such certificate, the serial number of the certificate issued in exchange therefor, the number of shares covered by said certificate, the name of the party to whom said certificate was issued and the face value of the stamps attached in payment of the tax on the transfer of the certificate. Evidence of the payment of the tax provided for herein shall be provided in one of the following manners and not otherwise, to wit:

(a) By attaching to the certificate surrendered for transfer, the stamps required for such transfer, or

(b) If the stamps are not attached to the certificate, but are attached to the bill or memorandum of sale affecting or evidencing the transfer of such certificate, by attaching to said certificate the said bill or memorandum of sale with stamps attached, or

(c) If the stamps covering the transfer are attached to a bill or memorandum effecting a transfer of one or more certificates or to one or more certificates included in said transfer, a notation must be made upon such certificates, bill or memorandum, as the case may be, clearly specifying and identifying the certificate or certificates to the sale or transfer of which the said stamps apply, or

(d) If the bill or memorandum bearing such stamps is not attached to the surrendered certificate or certificates to which it applies, a notation must be made upon such bill or memorandum stating the serial number or numbers of the certificates to which said bill or memorandum applies, as provided herein. It shall also retain and keep all surrendered or canceled shares or certificates and all memoranda relating to the sale or transfer of any thereof. All such books of account, transfer ledgers, registers, and certificate books, shall be retained and kept as aforesaid for a period of at least two (2) years subsequent to the date of the last entry made therein as herein required; and all such surrendered or canceled shares or certificates and memoranda relating to the sale or transfer of certificates taxable under this Article, shall be retained and kept for a period of at least two (2) years from the date of the delivery thereof. For the purpose of ascertaining whether the tax imposed by this Article has been paid, all such books of account, transfer ledgers, registers, certificate books, surrendered or canceled shares or certificates and memoranda relating to the sale or transfer thereof, shall at all times between the hours of ten o'clock in the forenoon and three o'clock in the afternoon, except Saturdays, Sundays, and legal holidays, be open to examination by the Comptroller or his duly authorized representative.

The Comptroller may enforce his right to examine such books of account and bills or memoranda of sale or transfer; and such transfer ledger, register and certificate books and surrendered or canceled shares or certificates by mandamus. If the Comptroller ascertains that the tax provided for in this Article has not been paid, the Attorney General at the instance of the Comptroller shall bring an action in the name of the State of Texas, in any court of competent jurisdiction for the recovery of such tax and for any penalty incurred by any person under the provisions of this Article.

Every person, firm, company, association, or corporation, or business conducted by a trustee or trustees that shall fail to keep such book of account or bills or memoranda of sale or transfer, or transfer ledger, register or certificate book or surrendered or canceled shares or certificates as herein required, or who alters, cancels, obliterates, or destroys any part of said records, or makes any false entry therein, or who shall refuse to permit the Comptroller or any of his authorized representatives

freely to examine any of said books, records, or papers at any of the times herein provided, or who shall in any other respect violate any of the provisions of this Section shall be deemed guilty of a misdemeanor and on conviction thereof shall for each and every such offense pay a fine of not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000), or be imprisoned not less than three (3) months nor more than one (1) year, or by both such fine and imprisonment.

Failure to pay tax, effect

Sec. 7. No transfer of certificates taxable under this Article made after June 1, 1941, on which a tax is imposed by this Article, and which tax is not paid at the time of such transfer shall be made the basis of any action or legal proceedings, nor shall proof thereof be offered or received in evidence in any court of this State.

Violations

Sec. 8. Any person, firm, company, association, corporation, or business conducted by a trustee or trustees that shall (a) fail to keep any of the records required to be kept under the provisions of this Article, or (b) shall make any sale, transfer or delivery of shares or certificates taxable under this Article without paying the tax by this Article imposed and (c) any person who shall in pursuance of any sale, transfer or agreement deliver any certificate in evidence of sale or transfer of or agreement to sell any such certificate, or bill or memorandum thereof, or who shall transfer or cause the same to be transferred upon the books or records of the association, company, corporation, or business conducted by a trustee or trustees whose stock or other certificates taxable hereunder is sold or transferred, which shall transfer or cause the same to be transferred upon its books without having the stamps provided for in this Article affixed thereto, or (d) shall make use of the adhesive stamp to denote the payment of the tax imposed by this Article without actually canceling such stamp as provided in Section 4 hereof, or (e) who shall wilfully remove or alter or knowingly permit to be removed or altered the canceling or defacing marks of any stamp provided for by this Article with intent to use such stamp, or shall wilfully or knowingly buy, prepare for use, use, have in his possession or suffer to be used any washed, restored or counterfeit stamp, or who shall intentionally remove or cause to be removed or knowingly permit to be removed any such stamp, shall, in addition to any other penalties herein provided, forfeit to the State as a penalty a sum of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) for each and every violation hereof. The Attorney General of the State of Texas at the instance of the Comptroller shall bring suit for the recovery thereof in any court of competent jurisdiction in Travis County, Texas, and all monies collected hereunder shall be paid into the State Treasury.

Stamps erroneously affixed; claims; suits

Sec. 9. If any stamp or stamps shall have been erroneously affixed to any book, certificate, or bill or memorandum of sale, the Comptroller may, upon presentation of a claim for the amount of such stamp or stamps and upon the production of evidence satisfactory to him that such stamp or stamps was or were so erroneously affixed so as to cause loss to the person or persons making such claim, pay such amount or such part thereof as he may allow, to such claimant out of any monies collected under this Article. Such claim shall be presented to the Comptroller in writing, duly verified, and shall state the full name and address of the claimant, the date of such erroneous affixing, the face value of such stamp or

stamps and shall describe the instrument to which the stamp or stamps were affixed and contain such evidence as may be available upon which the demand for such refund is based. Such claim shall be presented within ninety (90) days after such erroneous affixing. The Comptroller is hereby authorized to prescribe the form of proof of such claim and if he finds that such claim is just and that such stamps have been erroneously affixed, he shall within sixty (60) days issue a warrant or warrants for the amount claimed and allowed by him. If the Comptroller rejects such claim or any part thereof the claimant is hereby authorized to file suit in a court of appropriate jurisdiction in the County of Travis against the Comptroller as defendant for the purpose of determining the amount of such claim. Such suit shall be filed within ninety (90) days from the date on which such claim shall have been rejected by the Comptroller. After final adjudication of the amount of such claim the Comptroller is hereby authorized to draw a warrant or warrants in payment of same. All such warrants for refunds under the provisions hereof shall be written and signed by the Comptroller, counter-signed by the State Treasurer, and shall be paid only out of the funds collected hereunder.

Building and loan associations and credit unions, article inapplicable to

Sec. 10. The tax imposed by this Article shall not be construed as being applicable to shares, share accounts, certificates or pass books issued by any building and loan association chartered under the laws of this State, nor to credit unions defined in Article 2461, Revised Civil Statutes, 1925, Acts 1941, 47th Leg., p. 269, ch. 184, Art. XV.

Approved May 1, 1941.
Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7057a. Occupation tax on oil produced; definitions

Amount and computation of tax; records and reports; time of payment; penalty; mode of payment and persons liable

Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of four and one hundred twenty-five thousandths (4.125) cents per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions and shall be based upon tank tables showing one hundred (100) per cent of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be four and one hundred twenty-five thousandths (4.125) per cent of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums or other things of value paid therefor or which such oil will reasonably bring if produced in accordance with the laws, rules, and regulations of the State of Texas.

(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which pro-

duced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten (10) per cent of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six (6) per cent per annum from date due until date paid.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties the proportionate tax due. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. I, § 1.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Section 2 of Article I of the amendatory Act of 1941, cited to the text, provided that the tax levied in section 2 of article 7057a shall be allocated as provided in such act. See article 7083a.

Section 3 provided that the amendment of 1941 to section 2 of article 7057a should become effective at 7:00 a. m., May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7057d. Transferred to Article 7255b

Provisions of this article, Acts 1939, 46th Leg., p. 654, § 1, relating to discounts on

ad valorem taxes paid in advance, are set out as Article 7255b.

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art.	Art.
7060a. Occupation tax on certain services in connection with oil wells [New].	7065b—6. Application for motor fuel distributor's permit; issuance of permit [New].
7065b—1. Definitions; motor fuel taxes [New].	7065b—7. Bond or cash deposit; deposit of securities; default in payment of tax; suits [New].
7065b—2. Motor fuel; occupational or excise tax of 4 cents per gallon; collection; interstate commerce; in lieu of other motor fuel taxes [New].	7065b—8. Lien [New].
7065b—3. Monthly payments by distributors; reports [New].	7065b—9. Records to be kept by distributors; manifest to be carried during transportation; exemption [New].
7065b—4. Taxes to be paid to state; penalty for failure to comply or for fraudulent misapplication [New].	7065b—10. Dealers to keep manifests and book records [New].
7065b—5. Sales to distributors without payment of tax for further refining, exporting and certain other purposes [New].	7065b—11. Carriers, records to be kept by; reports [New].
	7065b—12. Pipe line operators; disposition of "drip gasoline"; requirements when "drip gasoline" is sold [New].

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

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| 7065b-13. "Refund dealer" defined; refunds; applications; records; license; invoice of exemption; affidavit; fire or other accident; Highway Motor Fuel Tax Fund [New]. | 7065b-21. Seizure, forfeiture and sale as affecting criminal prosecution [New]. |
| 7065b-14. Liquefied gas and other liquid fuels; tax on; permit to use; bond; application; payment of tax; release of sureties; connection of carburetor with cargo tank forbidden; records; enforcement [New]. | 7065b-22. Waiver of forfeiture proceedings on paying double amount of tax [New]. |
| 7065b-15. Inspection of premises, books and records [New]. | 7065b-23. Collection of taxes, penalties, costs and interest; rules and regulations; violation [New]. |
| 7065b-16. Cancellation, refusal of issuance, extension or reinstatement of license; grounds; notice; hearing; appeal [New]. | 7065b-24. Comptroller may issue subpoenas, compel attendance of witnesses, administer oaths, take depositions; other powers; failure of witness to obey [New]. |
| 7065b-17. Failure or refusal to collect or remit; suits; reports as evidence; certificate under seal of order, rule, bond or other instrument [New]. | 7065b-25. Special fund for administration and enforcement; disposition of taxes collected [New]. |
| 7065b-18. Violations of act; penalties; venue of suits; injunction against collection of taxes; bond in lieu of payment into suspense account [New]. | 7065b-26. Penalties for certain violations [New]. |
| 7065b-19. Comptroller authorized to measure containers; rules and regulations; design of vehicle tanks; testing and measuring of tanks; violations [New]. | 7065b-27. Penalties for certain other violations; effect of conviction; venue of prosecution [New]. |
| 7065b-20. Enforcement of act; stopping vehicles; seizure; forfeiture; proceeding; hearing; decree; sale; summary proceedings [New]. | 7065b-28. Repeal; effect [New]. |
| | 7065b-29. Partial invalidity [New]. |
| | 7066b. Motor bus companies; motor carriers; contract carriers; occupation tax [New]. |
| | 7066b-1. "Intrastate business" defined [New]. |
| | 7083a. Allocation of revenue derived from certain occupation and gross receipts taxes; appropriations and allocations for certain funds [New]. |
| | 7083b. Lien; liability for tax; taxes due and offenses under prior laws; partial invalidity; allocations as subject to appropriations [New]. |

Art. 7060. 7371 Gas, electric light, power or waterworks

Each individual, company, corporation, or association owning, operating, managing, or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such company, or corporation, or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power, or water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of more than one thousand (1,000) inhabitants and less than two thousand, five hundred (2,500) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to forty-four hundredths (.44) of one (1) per cent of said gross receipts, as shown by said report; and for any incorporated town or city of more than two thousand, five hun-

dred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to eighty-one hundredths (.81) of one (1) per cent of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and five thousand one hundred twenty-five ten-thousandths (1.5125) per cent of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power, or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone.

No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation, or association required to pay an occupation tax under this Article. Nothing in this Article shall be construed as affecting in any way the collection of ad valorem taxes authorized by law; nor impairing or altering in any way the provisions of any contracts, agreements, or franchises now in existence, or hereafter made between a city and a public utility, relating to payments of any sort to a city. Nothing in this Article shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys, and public ways by a public utility in the conduct of its business, and each such city shall have such right and power; but any such charges, whether designated as rentals or otherwise, and whether measured by gross receipts, units of installation, or in any manner, shall not in the aggregate exceed the equivalent of two (2) per cent of the gross receipts of such utility within such municipality derived from the sale of gas, electric energy, or water. Any special taxes, rentals, contributions, or charges accruing after the effective date of this Act, under the terms of any pre-existing contract or franchise, against any utility paying an occupation tax under this Article, when paid to any such city, shall be credited on the amount owed by such public utility on any charge or rental imposed for the use of streets, alleys, and public ways, levied by ordinance, and accruing after the effective date of this Act; provided that where valid ordinances have been enacted heretofore by cities imposing a charge or rental in excess of two (2) per cent of the gross receipts of such utilities, nothing herein shall be construed so as to prohibit the collection of such sums as may be due said cities thereunder from the date of said ordinances up to the time this Article shall become effective.

And provided further that utilities paying an occupation tax under this Article shall not hereafter be required to pay the license fee imposed in Article 5a, House Bill No. 18, Chapter 400, Acts of Forty-fourth Legislature,¹ for the privilege of selling gas and electric appliances and

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

parts for the repairs thereof, in towns of three thousand (3,000) or less in population according to the next preceding Federal Census. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. V, § 1.

¹ Vernon's Rev.Pen.Code, art. 1111d, § 5a.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Section 2 of Article V of the amendatory Act of 1941, cited to the text, provided that the tax levied in Article 7060

shall be allocated as provided in such Act. See Article 7083a.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7060a. Occupation tax on certain services in connection with oil wells

Section 1. (a) The term "person" shall for the purpose of this Article mean and include individuals, partnerships, firms, joint stock companies, associations, and corporations.

(b) Every person in this State engaged in the business of furnishing any service or performing any duty for others for a consideration or compensation, with the use of any devices, tools, instruments or equipment, electrical, mechanical, or otherwise, or by means of any chemical, electrical, or mechanical process when such service is performed in connection with the cementing of the casing seat of any oil or gas well or the shooting or acidizing the formations of such wells or the surveying or testing of the sands or other formations of the earth in any such oil or gas wells, shall report on the 20th of each month and pay to the Comptroller, at his office in Austin, Texas, an occupation tax equal to two and two-tenths (2.2) per cent of the gross amount received from said service furnished or duty performed, during the calendar month next preceding. The said report shall be executed under oath on a form prescribed and furnished by the Comptroller.

Sec. 2. A complete record of the business transacted, together with any other information the Comptroller may require shall be kept by each person furnishing any service or performing any duty subject to said tax, which said records shall be kept for a period of two (2) years, open to the inspection of the Comptroller of Public Accounts or the Attorney General of this State, or their authorized representatives. The Comptroller shall have the authority to adopt rules and regulations for the enforcement of this Article and the collection of the tax levied herein.

Sec. 3. If any person shall violate any provision of this Article, he shall forfeit to the State of Texas, as a penalty, the sum of not less than Twenty-five Dollars (\$25), and not more than Five Hundred Dollars (\$500) for each violation, and each day's violation shall constitute a separate offense, and in addition thereto delinquent taxes shall draw a penalty equal to one (1) per cent per month from due date. The State shall be secured for all taxes, penalties, interests and costs due by any person under the provisions of this Article by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such lien originated upon all the property used by said person in his business.

Sec. 4. If any section, subsection, sentence, clause, or phrase of this Article, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Article. The Legislature hereby declares that it would have passed this Article and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVI.

Approved May 1, 1941.

Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7064. 7376 Insurance companies other than life and other than fraternal benefit associations; tax on gross premiums.

Every insurance corporation, Lloyd's, or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, livestock, fidelity, guaranty, surety, casualty, or any other kind or character of insurance business other than the business of life insurance, and other than fraternal benefit associations, within this State at the time of filing its annual statement, shall report to the Board of Insurance Commissioners the gross amount of premiums received upon property located in this State or on risks located in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts as follows: shall pay a tax of four and five hundredths (4.05) per cent, provided that any such insurance carriers doing two (2) or more kinds of insurance business herein referred to shall pay the tax herein levied upon its gross premiums received from each of said kinds of business; and the gross premium receipts where referred to in this law shall be the total gross amount of premiums received on each and every kind of insurance or risk written, except premiums received from other licensed companies for reinsurance, less return premiums and dividends paid policyholders, but there shall be no deduction for premiums paid for reinsurance. The gross premium receipts, as above defined, shall be reported and shown as the premium receipts in the report to the Board of Insurance Commissioners by the insurance carriers, upon the sworn statements of two (2) principal officers of such carriers. Upon receipt by the Board of Insurance Commissioners of the sworn statements, showing the gross premium receipts by such insurance carriers, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by each insurance carrier, which tax shall be paid to the State Treasurer on or before the 1st of March following, and the Treasurer shall issue his receipt to such carrier, which shall be evidence of the payment of such taxes. No such insurance carrier shall receive a permit to do business in this State until all such taxes are paid. If any such insurance carrier shall have as much as one fourth of its entire assets, as shown by said sworn statement, invested in any or all of the following securities: real estate in this State, bonds of this State or of any county, incorporated city or town of this State, or other property in this State in which by law such insurance carriers may invest their funds, then the annual tax of any such insurance carriers shall be one and one half (1 1/2) per cent of its said gross premium receipts; and if any such insurance carrier shall invest as aforesaid as much as one half (1/2) of its assets, then the annual tax of such insurance carrier shall be three fourths (3/4) of one (1) per cent of its gross premium receipts, as above defined. No occupation tax shall be levied on insurance carriers herein subjected to a gross premium receipt tax by any county, city, or town. All mutual fraternal benevolent associations, now or hereafter doing business in this State under the lodge system and representative form of government, whether organized under the laws of this State or a foreign State or country, are exempt from the provisions of this Article. The taxes aforesaid shall constitute all taxes collectible under the laws of this State against any such insurance carriers, except the maintenance tax provided for under Article 4902 and the tax on premiums received under Workmen's Compensation Insurance policies, as provided for in House Bill No. 471, Chapter 25, General and Special Laws, Forty-fifth Legislature, Regular Session;¹ taxes provided in House Bill No. 258, Chapter 125, General and Special Laws, Forty-fifth Legislature, Regular Session;² and Senate

Bill No. 77, Chapter 335, General and Special Laws, Forty-fifth Legislature, Regular Session; ³ and no other tax shall be levied or collected from any insurance carrier by any county, city, or town, but this law shall not be construed to prohibit the levy and collection of State, county, and municipal taxes upon the real and personal property of such carrier. Purely cooperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property, and not for profit, shall be exempt from provisions of this law; however, foreign assessment casualty companies admitted to do business in Texas under Chapter 5, Title 78, Revised Civil Statutes of Texas of 1925,⁴ shall also pay a tax of four and five hundredths (4.05) per cent of their gross premium receipts from Texas business, as such receipts are herein defined. Provided, however, if any such company shall have an amount equal to one half of the gross amount of assessments, dues, premiums, or other amounts collected from policyholders within this State during the preceding year, as shown by the sworn statement herein required to be filed, invested in any or all of the above-mentioned securities, then the annual tax of such company shall be three (3) per cent of its said receipts for such preceding period, and if such company shall have invested as aforesaid an amount equal to the gross amount of such receipts for the preceding year, as shown by said sworn statement, then the annual tax of such company shall be one half (1/2) of one (1) per cent of its said receipts. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVIII, § 1.

¹ Articles 4906, 4918a.

² Article 6243a.

³ Article 4682b, §§ 1, 11-a; Vernon's Rev.Pen.Code, art. 571a.

⁴ Articles 4781-4783.

Approved May 1, 1941.

Effective May 1, 1941.

Section 4 of Article XVIII of Acts 1941, 47th Leg., p. 269, ch. 184, was amended by Acts 1941, 47th Leg., p. 774, ch. 481, § 1, effective June 16, 1941, to read as follows: "All revenue derived from, and collected under the provisions of this article shall be allocated as hereinafter provided in Article XX of this Act. Provided, however, that all revenue collected prior to the effective date of this Act and now held in suspense by the Insurance Commission pre-

paratory to being distributed and allocated to certain funds, is hereby appropriated, allocated, and transferred as follows: one-fourth (1/4) to the Available School Fund of the State of Texas and three-fourths (3/4) to the Old-Age Assistance Fund as created by Article XX, Section 2, Sub-section (4) of this Act. All laws, and parts of laws in conflict with this section are repealed to the extent of such conflict only." See article 7083a.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7064a. Life, accident, life and accident and health and accident insurance companies; tax on gross premiums; exceptions; deductions

Every group of individuals, society, association, or corporation domiciled in the State of Texas transacting the business of life, accident, or life and accident, health and accident insurance for profit, or for mutual benefit or protection, shall at the time of filing its annual statement report to the Board of Insurance Commissioners the gross amount of premiums received from or upon the lives of persons residing or domiciled in this State during the preceding year and each of such groups of individuals, society, association, or corporation shall pay an annual tax of five eighths (5/8) of one (1) per cent of such gross premium receipts, provided, however, that this tax shall not apply to local mutual aid associations, or fraternal benefit societies or organizations. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance, but there shall be no deduction made for premiums paid for reinsurance. If any such group of individuals, society, association, or corporation does more than one kind of insurance

business, then it shall pay the tax herein levied upon the gross premium for each kind of insurance written; the provisions of this Act shall not apply to fraternal insurance organizations or societies that limit their membership to one occupation. The report of the gross premium receipts shall be made upon the sworn statement of two (2) principal officers. Deductions from the gross premium receipts shall be allowed any group of individuals, society, association, or corporation of an acquisition cost of all of the first year's premiums, except that on industrial business such companies shall be permitted to deduct one and one half (1½) times the amount of the first year's premiums as acquisition costs. Upon receipt by it of the sworn statements above provided for, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by each of such group of individuals, society, association, or corporation, which tax shall be paid to the State Treasurer on or before the 1st of March following and the Treasurer shall issue his receipt therefor as evidence of the payment of such taxes. No such group of individuals, society, association, or corporation shall receive a permit to do business until all such taxes are paid. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State against any such insurance organizations, except the fees provided for under Article 3920, Revised Civil Statutes of Texas of 1925, as amended by Acts of the Forty-second Legislature of 1931, Chapter 152, Section 1, and no other taxes shall be levied or collected by any county, city, or town except State, county and municipal ad valorem taxes upon the real and personal property of such insurance organizations. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVIII, § 2.

Approved May 1, 1941.

Effective May 1, 1941.

Section 4 of Article XVIII of Acts 1941, 47th Leg., p. 269, ch. 184, was amended by Acts 1941, 47th Leg., p. 774, ch. 481, § 1, effective June 16, 1941, to read as follows: "All revenue derived from, and collected under the provisions of this article shall be allocated as hereinafter provided in Article XX of this Act. Provided, however, that all revenue collected prior to the effective date of this Act and now held in suspense by the Insurance Commission preparatory

to being distributed and allocated to certain funds, is hereby appropriated, allocated, and transferred as follows: one-fourth (¼) to the Available School Fund of the State of Texas and three-fourths (¾) to the Old-Age Assistance Fund as created by Article XX, Section 2, Sub-section (4) of this Act. All laws, and parts of laws in conflict with this section are repealed to the extent of such conflict only." See article 7033a.

Lien of taxes, fines, penalties and interest, see article 7033b.

Arts. 7065a—1 to 7065a—18. Repealed. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 28

Approved May 1, 1941.

Section 30 of article XVII of the repealing Act provided that the article should take effect and be in force 30 days from and after final passage.

Motor fuel tax, see articles 7065b—1 to 7065b—29.

Taxes due under this act before repeal remain valid obligations notwithstanding repeal, see article 7065b—28.

Art. 7065b—1. Definitions; motor fuel taxes

The following words, terms and phrases shall, for all purposes of this Article, be defined as follows:

(a) "Motor fuel" shall mean and include any volatile or inflammable liquid, by whatever name such liquid may be known or sold, with a flash point of one hundred and twelve (112) degrees Fahrenheit or below, according to the United States official closed testing cup method of the United States Bureau of Mines, which is used or is capable of being used, either alone or when blended, mixed, or compounded, for the purpose of generating power for the propulsion of any internal combustion engines or any motor vehicles. The term "motor fuel," however, shall

not include the products defined herein as "liquefied gases" and "other liquid fuels," upon which products a tax is levied by Section 14 of this Article.¹

(b) "Liquefied gases" shall mean and include all combustible gases which liquefy at certain temperatures and pressures, but which exist in the gaseous state at sixty (60) degrees Fahrenheit, and at a pressure of fourteen and seven tenths (14.7) pounds per square inch absolute.

(c) "Other liquid fuels" shall mean any liquid petroleum products, or substitute therefor, having a flash point above one hundred and twelve (112) degrees Fahrenheit, according to the United States official closed testing cup method of the United States Bureau of Mines, including diesel fuel, kerosene, distillate, condensate, or similar products that may be used as fuel to generate power for the propulsion of motor vehicles upon the highways of this State.

(d) "Motor vehicle" shall mean and include any automobile, truck, tractor, bus, vehicle, engine, machine, mechanical contrivance, or other conveyance which is propelled by an internal combustion engine or motor.

(e) "Vehicle tanks" shall mean an assembly used for the transportation, hauling, or delivery of liquids, comprising a tank, which may be one compartment or may be subdivided into two (2) or more compartments, mounted upon a wagon, automobile, truck, or trailer, together with its accessory piping, valves, meter, etc. The term "compartment" shall be construed to mean the entire tank whenever this is not subdivided; otherwise, it shall mean any one of those subdivided portions of the tank which is designed to hold liquid.

(f) "Distributor" shall mean and include every person in this State who refines, distills, manufactures, produces, blends, or compounds motor fuel or blending materials, or in any other manner acquires or possesses motor fuel or blending materials for the purpose of making a first sale, use, or distribution of the same in this State; and it shall also include every person in this State who ships, transports, or imports any motor fuel or blending materials into this State and makes the first sale, use, or distribution of same in this State; the said term shall also include every person in this State who produces or collects the liquid residuum of natural gas, commonly known as drip gasoline, or who is responsible for the production or formation of said drip gasoline, intentionally or otherwise, unless said product is totally destroyed or rendered neutral as motor fuel or as a product capable of use as motor fuel in this State.

(g) The term "user" shall be construed to mean any person who uses or consumes "liquefied gases" and "other liquid fuels" within this State in internal combustion engines for the generation of power to propel motor vehicles upon the public highways of this State.

(h) "Distribution" shall mean and include any transaction, other than a sale, in which ownership or title to motor fuel, or any derivative of crude oil or natural gas, passes from one person to another.

(i) "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, copartnership, corporation (public, private, or municipal), trustee, agency, or receiver.

(j) "Dealer" shall mean and include every person other than a distributor who engages in the business in this State of distributing or selling motor fuel within this State.

(k) "Public highway" shall mean and include every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, and notwithstanding that the same may

be temporarily closed for the purpose of construction, maintenance, or repair.

(l) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(m) "First sale" shall mean the first sale or distribution in this State of motor fuel refined, blended, imported into, or in any other manner, produced in, acquired, or brought into this State. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 1.

¹ Article 7065b—14.

Approved May 1, 1941.
Effective thirty days from and after final passage.

Section 30 of Article XVII of the amendatory Act of 1941 provided that Article

XVII should take effect and be in force thirty (30) days from and after final passage.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7065b—2. Motor fuel; occupational or excise tax of 4 cents per gallon; collection; interstate commerce; in lieu of other motor fuel taxes

(a) There shall be and is hereby levied and imposed (except as hereinafter provided) upon the first sale, distribution, or use of motor fuel in this State an occupational or excise tax of Four (4) cents per gallon or fractional part thereof so sold, distributed, or used in this State. Every distributor who makes a first sale or distribution of motor fuel in this State for any purpose whatsoever shall, at the time of such sale or distribution, collect the said tax from the purchaser or recipient of said motor fuel, in addition to his selling price, and shall report and pay to the State of Texas the tax so collected at the time and in the manner as hereinafter provided. Every such distributor shall also be liable to the State of Texas for the said tax of Four (4) cents per gallon on each gallon of motor fuel or fractional part thereof used or consumed by him and shall report and pay said tax as hereinafter provided. In each subsequent sale or distribution of motor fuel upon which the tax of Four (4) cents per gallon has been collected, the said tax shall be added to the selling price, so that such tax is paid ultimately by the person using or consuming said motor fuel for the purpose of generating power for the propulsion of any motor vehicle upon the public highways of this State.

It is the intent and purpose of this Article to collect the tax levied herein at the source of said motor fuel in Texas or as soon thereafter as the same may be subject to being taxed. No person, however, shall be required to pay a tax on motor fuel brought into this State in a quantity of thirty (30) gallons or less in a fuel tank, with a capacity of not more than thirty (30) gallons, when said fuel tank is connected with and feeds the carburetor of said motor vehicle and the motor fuel contained therein is used in the operation of said motor vehicle and not otherwise.

(b) Provided further, that the tax on one (1) per cent of the taxable gallonage shall be deducted by the distributor to cover losses¹ and the expense of collecting the tax levied herein and complying with the other provisions of this Article.

(c) The tax herein imposed shall be posted separately from the price of the motor fuel, wherever sold in this State.

(d) No tax shall be imposed upon the sale, use, or distribution of any motor fuel, the imposing of which would constitute an unlawful burden on interstate commerce and which is not subject to be taxed under the Constitution of the State of Texas and the United States. In the event this Article is in conflict with the Constitution or any law of the

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United States with respect to the tax levied upon the first sale, distribution, or use of motor fuel in this State, then it is hereby declared to be the intention of this Article to impose the tax levied herein upon the first subsequent sale, distribution, or use of said motor fuel which may be subject to being taxed.

(e) Provided, that the tax imposed herein shall be in lieu of any other excise or occupational tax imposed by the State or any political subdivision thereof on the sale, use, or distribution of motor fuel. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 2.

¹ So in enrolled bill. Probably should read "losses."

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—3. Monthly payments by distributors; reports

(a) Every distributor who shall be required to collect the tax levied by this Article upon the first sale or distribution of motor fuel in this State, or who shall be required to pay the tax levied herein upon motor fuel used by said distributor, shall upon the 20th day of each calendar month remit or pay over to the State of Texas at the office of the Comptroller at Austin, Travis County, Texas, the amount of such tax required to be collected during the calendar month next preceding and the amount of such tax required to be paid upon motor fuel used by said distributor during said preceding calendar month, and at the same time, such distributor shall make and deliver to the Comptroller at his office in Austin, Travis County, Texas, a report properly sworn to and executed by such distributor, or his representative in charge, which shall show the date said report was executed, the name and address of said distributor, and the month which the report covers, and which report shall show separately by gallons the motor fuel on hand at the beginning and at the end of the month, and complete information of all motor fuel handled during the month, including motor fuel purchased or received in interstate commerce, motor fuel purchased or received in intrastate commerce, reflecting separately the quantity received with the tax paid and the quantity received without the tax having been paid, motor fuel refined, motor fuel acquired by blending, motor fuel sold in interstate commerce, motor fuel sold in intrastate commerce, motor fuel sold and exported, motor fuel sold to the United States Government, motor fuel sold to a distributor for further refining, processing, blending, or for exportation upon which no tax was collected, motor fuel lost by fire or other accident, motor fuel lost by refinery shrinkage, evaporation, or other losses, and motor fuel used and consumed by the distributor and his representatives. The said report shall also show complete information by gallons of all blending materials purchased, acquired, sold, used, and lost by fire or otherwise, during the month the report covers, and the beginning and ending inventories of such blending materials. Said report shall also show a complete record of the number of barrels of crude oil refined and the number of cubic feet of gas processed. Provided that where a qualified distributor has not sold, used, or distributed any motor fuel during any month or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Provided further, that the Comptroller may prepare and furnish a form prescribing the order in which the information required herein shall be set up on said monthly report, but the failure of any distributor to obtain such form from said Comptroller shall be no excuse for the failure to file a report containing all the information required to

be reported herein. Every distributor, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in the amount of tax for the period covered by the report.

(b) Provided further, that every person selling motor fuel in export or interstate commerce only, and every person selling motor fuel upon which no tax is required to be paid under the provisions of this Article, shall nevertheless be required to keep the same records and make the same reports to the Comptroller, accounting for the motor fuel so sold, that the provisions of this Article require a distributor to keep and make.

(c) If any distributor shall fail to remit proper taxes collected upon the first sale or distribution of motor fuel, or taxes due upon the use of motor fuel in Texas, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted and paid to the State of Texas, the distributor shall pay as additional penalty any reasonable expenses included by the Comptroller in such audit. Provided, however, that all funds paid to the auditors of the Comptroller as expenses incurred in making audits shall be placed in a special fund in the State Treasury, which shall be used until exhausted for making other audits, and said sums are hereby appropriated for that purpose. Provided that nothing herein shall prevent the Comptroller, when said fund is exhausted, from using other funds available for that purpose.

(d) When it shall appear that a distributor or user to whom the provisions of this Article shall apply has erroneously reported and remitted or paid more taxes than were due the said State of Texas upon any motor fuel, liquefied gases, or other liquid fuels during any taxpaying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such distributor or user for the current period with the total amount of taxes so erroneously paid. Such credit shall be allowed before any penalties and interest shall be applicable. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 3.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—4. Taxes to be paid to state; penalty for failure to comply or for fraudulent misapplication

(A) All taxes collected hereunder by any distributor, or by any director, officer, agent, employee, trustee, receiver of such distributor, or by any person, shall be for the use and benefit of the State of Texas, and shall be paid to the State of Texas as provided in this Article.

(b) If any such distributor or any director, officer, agent, employee, trustee, receiver of such distributor, or any person, shall wilfully fail or refuse to pay to the State of Texas any such tax funds collected under the provisions of this Article, on or before the date such payment is due as provided by this Article, such distributor or such director, officer, agent, employee, trustee, receiver of such distributor, or such person, shall be guilty of a felony and shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500) nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment.

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(c) If any director, officer, agent, employee, trustee, receiver of any distributor, or any person, shall fraudulently misapply or convert to his own use any tax fund collected for the State of Texas under the provisions of this Article by such distributor, or any director, officer, agent, employee, trustee, receiver of such distributor, or by such person, which said money has come into the possession of or that is in the care of or under the control of such director, officer, agent, employee, trustee, receiver of such distributor, or of such person, and which said money is required to be paid to the State of Texas under the provisions of this Article, such director, officer, agent, employee, trustee, receiver, or such person shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500), nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 4.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Penalties, fines, forfeitures or penal offenses as cumulative, see article 7083b.

Art. 7065b—5. Sales to distributors without payment of tax for further refining, exporting and certain other purposes

(a) The Comptroller may authorize and permit any producer of natural gasoline, casing-head gasoline, drip gasoline, or any derivative or condensate of crude oil or natural gas and any licensed distributor of motor fuel to make a sale, resale or distribution of natural gasoline, casing-head gasoline, drip gasoline, motor fuel or any derivative or condensate of crude oil or natural gas without collecting the tax levied herein, to any distributor holding a permit under the terms of this Article, when such distributor purchasing the same has, in the opinion of the Comptroller, a satisfactory and sufficient bond, and when the commodity is sold and purchased for the purpose of further refining, further processing, blending or compounding with other products to produce motor fuel, or for exporting by railroad tank car, ship, or boat, or for resale for some one or more of such purposes, and not otherwise. If the distributor purchasing said commodities or products without paying said tax shall thereafter sell, or distribute said commodities or products, either alone or compounded, in this State, for any purpose other than that hereinabove provided, he shall be required to collect and pay over to the State of Texas at the time and in the manner herein provided, the tax at the rate of four (4) cents per gallon upon each gallon or fractional part thereof sold or distributed. Said distributor shall also be liable for and shall be required to pay to the State of Texas said tax at the aforesaid rate upon each gallon of such motor fuel used by said distributor. Failure or refusal to collect and pay over to the State of Texas the tax on motor fuel so sold or distributed by said distributor, or to pay the tax on motor fuel used by said distributor, shall subject him to all the liabilities, penalties, forfeitures, interest and costs provided in this Article.

(b) Provided further, that any person whether producer or licensed distributor, who shall make any sale or distribution as provided herein, shall be required to make and keep all the records and manifests involving such sales or distributions as is required of a distributor in Section 9 (b) of this Article. Said person shall also be required to make and file with the Comptroller the return or report required by Section 3 of this Article, showing all the information contained therein. The mani-

fest required to be issued upon such sale or distribution shall bear the notation that said product is being sold or distributed for further refining, further processing, blending, compounding, or for exportation, whichever the case may be. Provided further, that every producer shall qualify as a distributor and obtain a distributor's permit before selling the commodities named herein to any person other than a licensed and qualified distributor. All such sales and distributions shall be made in accordance with rules and regulations promulgated by the Comptroller. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 5.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—6. Application for motor fuel distributor's permit; issuance of permit

(a) From and after the effective date of this Article, all distributors of motor fuel in this State now engaged, or who desire to become engaged, in the sale, use, or distribution of motor fuel upon which the tax levied herein is required to be paid, shall file a duly acknowledged application for motor fuel distributor's permit with the Comptroller on a form prescribed by him, to be furnished upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said form shall set forth the name under which such distributor transacts or intends to transact such business as distributor, the principal office, residence, or place of business in Texas, and if other than an individual, the principal officers of a corporation or the members of a partnership or association, and their office, street, or post-office addresses. The Comptroller may require in said application such other information as he may desire. No distributor shall make a first sale, use, or distribution of motor fuel until such application has been filed and a permit has been obtained.

(b) Upon receipt of the application and the bond hereinafter provided for, the Comptroller shall issue to every distributor a nonassignable, consecutively numbered permit authorizing the first sale, use, or distribution of motor fuel, or its substitute, in this State from the date of the issuance of said permit, until and including the following December 31st. On or before January 1st of each year, and before any distributor shall make a first sale, use, or distribution of motor fuel, or engage in selling motor fuel in this State after December 31st, an application shall be filed and a permit obtained for the calendar year. Said permit shall provide that the same is revocable and shall be cancelled upon violation of any provisions of this Article, or any rule or regulation adopted by the Comptroller. If such permit is cancelled or suspended, said distributor shall not sell, use, or distribute motor fuel upon which a tax is required to be paid until a new permit is granted or the original permit is reinstated. Provided, however, that no permit shall be issued or reinstated where it appears from a duly verified audit made as herein provided by an authorized representative of the Comptroller that the applicant is delinquent in the remittance or payment of any motor fuel tax, penalty, or interest under the provisions of this Article. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 6.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—7. Bond or cash deposit; deposit of securities; default in payment of tax; suits

(a) Before any permit shall be issued and before engaging in the first sale, use, or distribution of motor fuel, upon which a tax is required to be paid, in Texas, every distributor shall execute and file with the Comptroller a good and sufficient surety bond, which shall run concurrently with the permit required of a distributor to be obtained. The said bond shall be signed by said distributor and a good and sufficient surety company or companies authorized to do business in this State, to be approved by the Comptroller, and, except as hereinafter provided, in an amount not less than One Thousand Dollars (\$1,000) nor more than Twenty-five Thousand Dollars (\$25,000), payable to the State of Texas, and conditioned upon the full, complete, and faithful performance by the distributor of all the conditions and requirements imposed upon him by this Article, or the rules and regulations of the Comptroller promulgated hereunder, on a form to be prescribed by the Comptroller with the approval of the Attorney General, expressly providing for the performance of said obligations, and the remittance and/or payment at Austin, Travis County, Texas, of all taxes collected and required to be collected for the use and benefit of the State, and all other taxes due and accruing upon the use of motor fuel by said distributor, and all costs, penalties, and interest provided in this Article, provided, however that in any event the total of all recoveries under such bond for any and all breaches of its conditions occurring at any time while it remains in force to support a permit, shall not for any calendar year exceed the penal sum named therein; provided further, that any such bond, continuous in form, may be, if sufficient and acceptable to the Comptroller, continued in effect by a renewal certificate, and, if so continued in effect, shall be sufficient to support the issuance of any new permit, and provided further, that the said renewal certificates, as, if and when issued, shall have all the force and effect of an original bond for the calendar year for which said renewal certificate is issued. The amount of any bond required of any distributor shall be fixed by the Comptroller, and subject to the limitations herein provided, additional bond may be required by the Comptroller at any time an existing bond becomes insufficient, unsatisfactory, or unacceptable. However, the distributor may demand a reduction of his bond after six (6) months from the effective date thereof to a sum to be not more than three (3) times the highest tax said distributor has collected and paid to the State for any month during the preceding six (6) months, but which shall never be less than the minimum nor more than the maximum aforesaid.

Provided, that when a distributor or other person produces, manufactures, refines, or acquires in any other manner any product of petroleum or natural gas for his own use and consumption as motor fuel and not to be sold or distributed, the Comptroller may accept a minimum bond in an amount of not less than One Hundred Dollars (\$100); said bond to be in the form and substance and conditioned as hereinabove provided.

(b) The Comptroller shall have the right, if, in his opinion, the amount of any existing bond shall become insufficient, or any surety on a bond shall become unsatisfactory or unacceptable, to require the filing of a new or an additional bond. When said new bond has been furnished, the Comptroller shall cancel the bond for which said new bond is substituted. No recoveries on any bond or execution of any new bond or renewal of a permit shall invalidate any bond. A new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect the validity of any bond. Provided further, that the

Comptroller shall have the authority to require any distributor to make reports and remit to the State for taxes collected by him, or taxes accruing on motor fuel used by him, at shorter intervals than one (1) month at any time any maximum bond shall, in the opinion of said Comptroller, become insufficient. Should any distributor fail or refuse to supply a new or additional bond within ten (10) days after demand, or shall fail or refuse to file reports and remit or pay the said tax at the intervals fixed by the Comptroller, said distributor's permit shall be cancelled by the Comptroller as herein provided.

(c) Any surety on any bond furnished by any distributor as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided however, that such request shall not operate to relieve, release, or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said thirty-day period. The Comptroller shall promptly on receipt of notice of such request notify the distributor who furnished such bond, and unless such distributor shall within fifteen (15) days from the date of said notice, file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Article provided, the Comptroller shall proceed to cancel the permit of said distributor in the manner herein provided. If such new bond shall be furnished by said distributor as above provided, the Comptroller shall cancel and surrender the bond for which such new bond is substituted.

(d) That in lieu of giving a bond, any distributor may deposit in the Suspense Account of the State Treasury money in the amount of the bond that may be required, which shall never be released until securities are substituted for the same, or a bond executed in lieu thereof, or until the Comptroller has made a complete and thorough investigation and authorized the same to be released; and provided, in lieu of cash or the bond required by this Article, such distributor may deposit securities with the Comptroller, that shall be acceptable to him. Said securities shall be placed in the Treasury as other securities, but in all events, shall be of the same class as the funds of the University of Texas may be legally invested in. Provided, however, that if, in the opinion of the Comptroller, the cash or securities so deposited shall become insufficient for the purpose for which they were deposited, he shall demand additional cash or securities, and upon the failure or refusal of distributor to supply the additional cash or securities within ten (10) days after demand, the Comptroller shall cancel the distributor's permit as herein provided. When default of payment of taxes collected upon the sale or distribution of motor fuel and accruing upon the use of motor fuel by said distributor, is made by any distributor who has money and/or securities deposited with the State Treasurer in lieu of a bond as herein provided, suit shall be instituted by the State, and after the State has established its debt for delinquent taxes by final judgment of court, money on deposit in suspense account shall be withdrawn therefrom and shall be used to pay off and satisfy such judgment; and provided further, if securities are on deposit with the State Treasurer, such securities shall be sold by the Comptroller, and the proceeds of sale shall be used in paying off and satisfying said judgment and accrued court costs and interest. Provided however, the defaulting distributor may acknowledge in writing the correctness of the State's claim for taxes, costs, and penalties, and may authorize the withdrawal of said money or securities to pay on

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

said claim without having suit filed. Provided further, that the cash or securities, or any unpaid portion thereof, deposited by said distributor in lieu of surety bond, shall not be returned or refunded to any person except the distributor, unless the person claiming any right, title, and interest in and to said funds or securities, shall have declared said right, title, and interest in writing, executed jointly by said distributor and said claimant, under oath, and filed with the Comptroller at the time such deposit was made. Provided further, that suit may be filed against any surety or sureties on any bond furnished by a distributor, without first resorting to or exhausting the assets of said distributor or without making said distributor, as principal obligor in said bond, a party to said suit. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 7.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—8. Lien

All taxes, penalties, interest and costs due by any distributor under the provisions of this Article and all taxes collected and required to be paid by said distributor to the State, shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any distributor, devoted to or used in his business as a distributor, which property shall include refinery, blending plants, storage tanks, warehouses, office buildings and equipment, tank trucks or other motor vehicles, stocks on hand of every kind and character whatsoever used or usable in such business, including crude oil or other materials for the manufacture, refining, blending, or compounding of motor fuels and the refined products therefrom, and the proceeds from the sale of such materials and refined products, including cash on hand and in bank, accounts and notes receivable, and any and all other property of every kind and character whatsoever and wherever situated devoted to such use, and each tract of land on which such refinery, blending plant, tanks, or other property is located, or which is used in carrying on such business. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 8.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—9. Records to be kept by distributors; manifest to be carried during transportation; exemption

(a) Every distributor shall keep in Texas for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General or their authorized representatives, a complete and well-bound book record of all crude oil and other oil or products from which such distributor may refine or blend any motor fuel or other derivatives of crude petroleum that is sold or used by him, and his record shall show the date of receipt, the name and address of the person from whom purchased, the means of delivery, and the quantity in barrels, of all such crude oil and other oil or products; also it shall show all sales of the same as and when made from stocks on hand, the quantity refined or blended, and inventories on the first of each month. Provided further, a complete record in barrels or gallons shall be kept of all liquid by-products derived or obtained from any refining, absorption, or recycling operation. Said record shall also show separately the number of barrels or

gallons of such products on hand at the first of each month and the number of barrels or gallons sold, used, or otherwise disposed of.

Every distributor shall also keep in Texas for a period of two (2) years, open to said inspection, a complete and well-bound book record of all motor fuel, casing-head gasoline, natural or drip gasoline and other derivatives or condensates of crude petroleum or natural gas, or their products, purchased or received by said distributor. Such records shall show the date received, from whom purchased or received, the quantity received, the commodity or kind of product received, and such other information as will provide a complete record of the disposition of said products. Said distributor shall also keep for a period of two (2) years a complete record of inventories on the first of each month of all motor fuel, casing-head gasoline, natural gasoline or drip gasoline, or other derivatives or condensates of crude petroleum, or natural gas, or their products.

(b) Every distributor shall keep also in Texas for a period of two (2) years, open to said inspection a complete record of each and every sale, distribution or use of motor fuel, crude oil, kerosene, naphtha, distillate, casing-head gasoline, drip gasoline, absorption and natural gasoline, and other derivatives or condensates of crude oil or natural gas, including fuel oil and other liquid residues, regardless of whether or not a tax is due upon said products under the provisions of this Article; and providing that the record of each such sale, distribution, or use of such commodities shall include the date of any such transaction, the name and address of each purchaser or user, and the amount of any such commodity so sold or used. And it is especially provided that any such sale, distribution, or use of any of the foregoing commodities shall be recorded upon a form of manifest to be prescribed or approved by the Comptroller and furnished by the distributor. Said manifest shall be issued in not less than duplicate counterparts and numbered consecutively. Said manifest shall be printed and the counterparts shall be printed on paper of different color, and shall have printed thereon the name of the distributor, his address, the serial number of said manifest, and spaces shall be provided thereon wherein shall be shown the date of such sale, distribution or use, the purchaser or other recipient and his address, the quantity sold, the means of delivery, including the license number of and description if delivered into or by a motor vehicle, trailer, the number and initial if delivered by tank car, the name or description if delivered by boat or barge, and the opening and closing record of meter readings or tank gauges if delivered by pipe line, and the time of delivery into the tank wagon, trailer or other conveyance; provided, however, that rail shipments of motor fuel and other derivatives or condensates of crude products or natural gas shall be supported by regular bills of lading. Provided further, that the manifest shall reflect separately the tax involved in the sale of motor fuel apart from the cost thereof, less the tax. The manifest shall be properly made out and signed by both the distributor and the purchaser or recipient of said commodity. Every person receiving from a distributor any motor fuel and reselling or redelivering the same, shall likewise record each such sale or delivery upon similar manifest. Provided, however, that manifests shall not be required upon retail sales in quantities of thirty (30) gallons or less.

(c) It is the intent and object of this Section to require that every person, except as herein expressly provided to the contrary, who shall transport any commodity required to be recorded upon a manifest shall carry with said commodity at all times a manifest covering said cargo, and said person shall issue a manifest to the purchaser or receiver of all

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or any part of the commodity so being transported, and to require that such purchaser or receiver shall receipt on said manifest for the quantity so delivered and received, and that one counterpart of the manifest shall be delivered to the purchaser, to be retained by him for the time and in the manner required herein, for inspection by the Comptroller and Attorney General, and that another counterpart shall be retained by the distributor or other seller for like purposes and periods. If no sale is involved in such transaction a notation showing such fact or information shall be recorded on said manifest. Provided further, that carriers-for-hire operating under valid permits or certificates of convenience and necessity issued by the Railroad Commission of the State of Texas, and not engaged in transporting motor fuel for sale or distribution for sale, and persons operating motor buses under franchises or licenses issued by municipalities shall not be required to carry or issue a manifest for motor fuel in quantities of one hundred (100) gallons or less, when said motor fuel is contained and transported in the fuel tank connected to and feeding the carburetor of any motor vehicle owned or operated by said carrier or person, and is used exclusively for the propulsion of such motor vehicle and is not transported for sale, distribution, or delivery to any other person. This exemption shall not apply to the fuel tank of any motor vehicle used to transport motor fuel in any quantity for sale or distribution for sale.

Provided however, that where a distributor markets his products through his own service stations, that as to said service stations, it will be sufficient to keep the records at said service stations, hereinafter required by this Article to be kept by dealers. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 9.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—10. Dealers to keep manifests and book records

Every dealer shall keep, at each place of business in Texas, for a period of two (2) years, for the inspection at all times of the Comptroller and the Attorney General, or their authorized representatives, the manifest furnished by the seller, as required herein, and in addition thereto a well-bound book record which will provide complete information of all motor fuels, naphtha, kerosene, distillate, gas oil, fuel oil and/or casing-head gasoline, natural gasoline, drip gasoline or absorption gasoline, and all other derivatives or condensates of crude oil or natural gas, purchased or received by him at each place of business, and inventories on the first of each month of all such products. Such record shall show the date received, the name and address of the person from whom purchased or received, the number of gallons, the designation by name of the particular kind of motor fuel or other products purchased or received, the point from which shipped or delivered, the point at which received, the number and initials of car if shipped by rail, the name of the boat or barge, if shipped by water, and the license number and description, if received by motor vehicle or trailer, and in addition, the total daily sales, designating the particular kind of motor fuel, kerosene, naphtha, distillate, gas oil, fuel oil, casing-head gasoline and/or natural gasoline, drip gasoline, absorption gasoline, or other derivatives or condensates of crude oil or natural gas, sold or delivered, whether the same be taxable or not under the provisions of this Article. Upon each sale or delivery of any of the commodities named herein at wholesale for the purpose of resale, and upon each retail sale, distribution or use of said commodities in quantities of more than thirty (30) gallons, every dealer shall be re-

quired to issue and keep for a period of two (2) years, a manifest made up as required by Section 9(b) of this Article, giving full details of such sales, deliveries, distributions, or use, as said form manifest provides shall be given. The duplicate of said manifest shall be delivered to the purchaser or carrier and the original kept by said dealer. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 10.

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Art. 7065b—11. Carriers, records to be kept by; reports

(a) All common and contract carriers in this State shall keep for a period of two (2) years, open to inspection by the Comptroller or his authorized representatives, a complete record of each transportation of motor fuel, showing the date of transportation, the consignor and consignee, the means of transportation and the quantity and kind of motor fuel transported. Said record shall show such intrastate records separately from interstate records.

(b) All persons operating trucks, pipe lines, and other conveyances as common or contract carriers in the transportation of motor fuel into and from this State, exclusive of railroads, shall render a sworn report to the Comptroller not later than the 20th of each month, on a form prescribed by said Comptroller, showing a description of the truck or other conveyances in which the same was transported, the date said motor fuel was transported, the consignor and consignee, and the quantity and kind of said motor fuel which was transported by such persons during the preceding month. There shall also be included in said report full data concerning the diversion of shipments en route as amount to a change from interstate to intrastate and intrastate to interstate commerce. Such report shall show the points of origin and destination, the number of gallons shipped or transported, the date, the consignee and the consignor, and the kind of motor fuel. All persons operating railroads as common carriers in the transportation of motor fuel into and from this State shall, as and when requested by the Comptroller, and in such form as may be prescribed, render, not later than the 20th of the following month, a sworn report for the preceding month, or for such other period or periods as may be requested, showing a description of the tank car or other conveyance in which the same was transported, and shall render such other information concerning the diversion of or change of shipments en route from interstate to intrastate commerce or intrastate to interstate commerce, as may be required by the Comptroller. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 11.

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Art. 7065b—12. Pipe line operators; disposition of "drip gasoline"; requirements when "drip gasoline" is sold

Every person operating a pipe line for the purpose of conveying or moving natural gas through such pipe line shall either collect and conserve for the purpose of sale, distribution, or use the liquid residuent commonly known as "drip gasoline" which is formed and extracted from such pipe lines, or if the said product has no practical value to said person, he shall neutralize, burn, or otherwise destroy said product in a manner that will prevent its use as motor fuel in this State. If such drip gasoline is sold, distributed, or used as motor fuel, said person shall

obtain the permit, make the reports, and keep the records of such sales, distributions, or use in compliance with the provisions of this Article. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 12.

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Art. 7065b—13. "Refund dealer" defined; refunds; applications; records; license; invoice of exemption; affidavit; fire or other accident; Highway Motor Fuel Tax Fund

The term "refund dealer" wherever used in this Article shall mean any dealer, distributor, or other person who engages in the selling of motor fuel or who appropriates for his own use and consumption motor fuel on which a refund of the tax paid on such motor fuel is authorized by this Article.

(a) Any person who purchases motor fuel in the State of Texas, and any distributor who appropriates motor fuel for use when such motor fuel purchased by such person or used by such distributor for operating or propelling any stationary gas engine or tractor used for agricultural purposes, motor boats, aircraft, or for any purpose other than use in a motor vehicle operated or intended to be operated in whole or in part upon any of the public highways, roads, or streets of the State of Texas, on which motor fuel tax has been paid, either directly or indirectly, shall be refunded the amount of such taxes so paid by the distributor, exclusive of the deduction allowed distributors for collecting the tax and for evaporation and other losses in the manner and subject to the limitations and conditions described herein. Provided, however, that no greater amount shall be refunded than has been paid into the Treasury on any motor fuel. The tax actually paid by any distributor or person shall be refunded as provided herein on motor fuel not subject to the tax.

(b) Any person or distributor desiring to appropriate or sell motor fuel on which a refund of the tax is authorized by this Article, shall, before making such appropriation or sale, make application to the Comptroller of Public Accounts, upon forms to be prescribed by the Comptroller, and containing such information as the Comptroller may require, for a refund dealer's license to sell such motor fuel; and it shall be unlawful for any person to sell or appropriate any motor fuel upon which a refund of the tax will be made, or is intended to be made, without first having obtained from the Comptroller of the State of Texas such license to sell or appropriate such motor fuel.

A separate application shall be made to the Comptroller by such person or distributor for each place of business from which refund motor fuel is to be sold or distributed by such person or distributor, and the Comptroller shall issue a separate license for each such place of business. The Comptroller shall examine each application for license received by him, and, if found in due form, and if within the discretion of the Comptroller, the applicant is entitled to such license, the same shall be issued. When such application is made to the Comptroller, the applicant for license shall be required to file oath with the Comptroller that he will faithfully perform and comply with the Statute making provision for the sale, distribution, and use of motor fuel subject to a refund of the motor fuel taxes. Each license issued hereunder shall remain in full force and effect until the first day of March following its date of issue, and annually on the first day of March each refund dealer, or other person, desiring to sell or appropriate motor fuel upon which a refund of the tax is authorized must obtain from the Comptroller a license, or a re-

newal of his existing license, to sell such motor fuel as herein provided. Any refund dealer's license issued hereunder is not transferable unless such transfer is authorized by the Comptroller. Any person who sells motor fuel upon which a refund of the tax may be authorized, or is claimed, under the provisions of this Article, without having obtained a refund dealer's license, as provided for under this Article, shall be guilty of a misdemeanor, and upon conviction, shall be liable in any sum not to exceed One Thousand Dollars (\$1,000), or by a jail sentence not to exceed six (6) months in jail, or by both such fine and jail sentence.

Every refund dealer shall be required to maintain the records required of a dealer in Section 10 of this Article. Said refund dealer shall also be required to affix his license number to every invoice of exemption he may issue under the provisions of this Article.

The Comptroller shall prescribe the form of license to be used under this Article and shall have authority, and it shall be his duty, to revoke and cancel any license issued hereunder when the refund dealer violates any Section of this Article. And, in the event the Comptroller does revoke a license, then the said license or renewal certificate and all books containing invoices of exemption held by such refund dealer shall be accounted for and surrendered to the Comptroller.

No refund of the tax shall be granted on any motor fuel to any person, claimant, firm, corporation, or otherwise, unless such motor fuel has been purchased from or used by a licensed refund dealer as provided for in this Article; and the Comptroller is hereby prohibited from issuing a warrant in payment of any refund of the tax on any motor fuel not purchased from a licensed refund dealer, except refund on motor fuel exported or lost by accident.

(c) The invoice of exemption shall be demanded by the purchaser or recipient of motor fuel used for refund purposes, and upon each delivery by a refund dealer, or upon each appropriation for use of motor fuel upon which a refund of the tax may be claimed, the invoice of exemption shall be made out at the time of such delivery, or of such appropriation for use, which invoice of exemption shall state: the current number of the license of the refund dealer; the number of gallons of motor fuel thus delivered or appropriated; the purpose for which such motor fuel will be used, or is intended to be used; the date of purchase, and the date and place of delivery, or appropriation; the name of the purchaser or user; the name of the agent or employee actually making the purchase, or appropriation, if any; the seller and place of business of seller; the manner of delivery. And the said invoice of exemption shall show thereon such other information as the Comptroller may require; and no refund shall be allowed unless the refund dealer executes such an invoice of exemption as provided above. Provided, however, that if it be shown to the Comptroller by evidence sufficient and satisfactory to the Comptroller that the motor fuel was in good faith used by claimant for exempt purposes and the invoice of exemption presented with the claim did not issue at the time of delivery, through no fault of the claimant, the rights of the claimant shall not be prejudiced because of the invoice of exemption not having been issued at the time of delivery of the motor fuel, and the Comptroller shall issue warrant in payment of the claim.

And provided further, that the person selling such motor fuel, or the refund dealer, in issuing invoices of exemption to the user of such motor fuel, shall make such invoices in duplicate, the duplicate of which shall be delivered to the user of such motor fuel, and the original shall be retained by the refund dealer for a period of two (2) years, at the place of business designated in the refund dealer's license, in the same manner

and subject to the same examination as required of other records of motor fuel to be kept.

Each invoice of exemption shall be issued at the time of delivery by the refund dealer, or his employee, and shall also be signed by the user of such motor fuel, or by his duly authorized agent. But, if the user of such motor fuel is not present at the time of delivery, and cannot sign the invoice of exemption at the time of delivery, then he shall be required to sign such invoice at his first opportunity thereafter. The refund dealer or employee of said refund dealer shall not sign for the purchaser when issuing the invoice of exemption.

(d) When a claimant purchases or acquires for use motor fuel upon which a refund of the tax may be due, he shall within six (6) months from the date of delivery of the motor fuel upon which a refund is claimed, and not thereafter, file with the Comptroller an affidavit, on such form as may be prescribed by the Comptroller. Said affidavit shall include a statement as to the source or place of purchase or acquisition of such motor fuel used for purposes other than in propelling motor vehicles over the highways of this State; that the information stated in the attached duplicate copy of the invoice of exemption is true and correct, and the manner in which said motor fuel was used, and that no part of said motor fuel was used in propelling motor vehicles over the highways of this State. Said affidavit shall be accompanied by the duplicate copy of the invoice of exemption above referred to, and the Comptroller may require other affidavits in such form and time as he may deem advisable, and if he finds that such claims are just, and that the taxes claimed have actually been paid by claimant, then he shall issue warrant or warrants for the amounts due claimant, but no warrant shall be paid by the State Treasurer unless presented for payment within two (2) years from the close of the fiscal year in which said warrant was issued, but claims for the payment of such warrant may be presented to the Legislature for appropriation to be made from which said warrants may be paid.

No refund shall be made where motor fuel is used later than six (6) months from date of delivery or appropriation, and no refund shall ever be made where it appears from the invoice, or from the affidavits, or other evidence submitted, that the sale or purchase was made more than six (6) months prior to the date of filing of the application for refund. The date of filing shall be the day such claim is actually received in the Comptroller's office. In addition to other penalties prescribed in this Article, it is herein provided that a felony conviction for a violation of any provision of this Section of said Article shall automatically forfeit the right of said convicted person to sell motor fuel for refund purposes, and shall forfeit the right of said convicted person to file a claim and obtain a refund for a period of one (1) year from the date of said conviction.

No refund of the tax shall be allowed on motor fuel used in any registered or licensed motor vehicle or in any motor vehicle operated or intended to be operated in whole or in part upon any of the highways, roads, and streets of this State.

If any distributor, or other person, shall export or lose by fire or other accident any motor fuel in quantities of one hundred (100) gallons or more, so that the same may never be made use of within this State, after the tax has been paid on such motor fuel, claim for refund may be made in the manner herein provided, or as the Comptroller may direct. Provided, however, that showing must be made that said tax was paid or accounted for by a licensed and bonded distributor, and the Comptroller shall deduct from such refund made under the provisions of this Article the one (1) per cent deduction allowed distributors.

(e) When the Comptroller has issued a refund dealer's license to any person desiring to sell or distribute motor fuel upon which a refund of the tax is authorized, or upon which a claim is to be filed for a refund of the tax, the Comptroller shall issue to such refund dealer a book, or books, of blank invoices of exemption, which invoices shall be serially numbered, and an original and a duplicate of each invoice shall be made. The Comptroller shall keep accurate records of the number of books of invoices of exemption issued and furnished to each refund dealer, and the refund dealer shall, at all times, account for all such books of invoices of exemption so received by him. Any invoices of exemption mutilated or unusable must be returned to the Comptroller by the refund dealer for credit to his account, and any unissued invoice of exemption lost or destroyed must be reported to the Comptroller by such refund dealer. The Comptroller shall not issue any additional books of invoices of exemption to any refund dealer until he has made proper accounting for each invoice of exemption theretofore issued him. The books of invoices of exemption issued are not transferable or assignable by such refund dealer unless such transfer or assignment is authorized by the Comptroller, and failure by such refund dealer to make proper accounting for all invoices of exemption issued to him by the Comptroller shall be cause for the cancellation of his license as a refund dealer as herein provided.

If the duplicate invoice of exemption retained by purchaser is lost, or destroyed, by purchaser, such purchaser may make application to the Comptroller for forms to be issued in lieu of lost duplicate.

The invoice of exemption required by this Article shall be furnished, free of cost, by the Comptroller to the refund dealer. And, no forms of invoice of exemption shall be used by the dealer or person using refund motor fuel other than those issued and furnished by the Comptroller.

(f) All filing fees shall be paid into the State Treasury and be paid out on vouchers and warrants in such manner as may be prescribed by law.

(g) All the moneys paid into the Treasury under the provisions of this Article, except the filing fees provided herein, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on sale of motor fuel during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, of 1925.

(h) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for

said purpose the sum of Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the amount deducted originally by the distributor shall be deducted in computing the refund. The Comptroller shall deduct fifty (50) cents from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, as well as for the payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby appropriated for such purpose. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 13.

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Art. 7065b—14. Liquefied gas and other liquid fuels; tax on; permit to use; bond; application; payment of tax; release of sureties; connection of carburetor with cargo tank forbidden; records; enforcement

(a) From and after the effective date of this Article, there shall be and is hereby levied and imposed an excise tax of four (4) cents per gallon, or fractional part thereof, on all users of liquefied gases, and eight (8) cents per gallon, or fractional part thereof, on all users of other liquid fuels, upon the use of such liquefied gases and other liquid fuels by any person within this State only when such liquefied gases and other liquid fuels are used in an internal combustion engine for the generation of power to propel motor vehicles upon the public highways of this State. The said tax shall be computed and paid to the State of Texas through the Comptroller at the time and in the manner hereinafter provided.

The term "use" wherever used in this Section shall mean and include the consumption of "liquefied gases" and "other liquid fuels," as those terms are defined in Section 1 of this Article, by any person in a motor vehicle for the propulsion thereof upon the public highways of this State.

Each "user" shall be prima facie presumed to have used or consumed for taxable purposes all liquefied gases and other liquid fuels shown by a duly verified audit of the Comptroller to have been purchased or received by him, and not accounted for.

From and after the effective date of this Article, any person using, or who may thereafter desire to use liquefied gases or other liquid fuels defined herein, for the purpose of the propulsion of motor vehicles upon the public highways of this State, shall file with the Comptroller of Public Accounts, an application for a permit to use said products, as herein provided, in such form as the Comptroller may prescribe, giving correct name and address of the person making application, the make, horsepower, motor number, highway license number, and fuel tank capacity of each vehicle intended to be used, including all auxiliary tanks, and a new application shall be filed on or before December 31st of each year for a permit for the subsequent calendar year. The application shall carry an agreement to file information with the Comptroller of any additional equipment acquired, or any changes in equipment being used, during the period for which permit is issued, and such other information as the Comptroller may require. Said permit may be revoked for violation of any provision hereof.

(b) Concurrently with the filing of said application, every user shall file with the Comptroller a bond in the amount of One Hundred Dollars (\$100) for each vehicle to be used, which bond shall be executed by a surety company or surety companies, acceptable to the Comptroller, who is authorized to write surety bonds within this State or the equivalent in cash, or securities, to be approved by the Comptroller. Said bond shall be posted to guarantee payment of taxes levied herein, together with penalties and interest, and shall be conditioned upon the compliance with all other provisions of this Article affecting said user, and shall be upon a form prepared by the Attorney General of Texas. Cash or securities pledged in lieu of bond shall be held in suspense by the Comptroller until all requirements of this Article applicable to the user have been complied with. Provided, the Comptroller may permit an exchange of bonds, or require new bonds as his discretion may direct.

Surety bonds posted under the requirements of this Section shall expire on December 31st of each year, and may be continued in force for the succeeding twelve (12) months by renewal certificate issued by the surety thereon. Bonds may be increased or reduced by certificate of the surety thereon, effective to December 31st succeeding, if additional vehicles shall be acquired by the user, or if the number of vehicles is reduced during the period covered by the license and bond.

(c) The application in proper form and bond, cash, or securities having been filed with and accepted by the Comptroller, a nontransferable permit, or certificate of said permit, shall be issued to the person, which shall expire on December 31st subsequent to the issuance thereof, and which shall be serially numbered and signed by the Comptroller, for each vehicle enumerated within the application, and shall have written thereon the highway license number and factory motor number of the vehicle. Said certificate shall be appropriately worded to identify the person or his agent as licensee under the provisions of this Article, entitled to use liquefied gases or other liquid fuels described herein, assuming the tax liability incurred by the use thereof, and a certificate of such permit to be furnished by the Comptroller shall be framed and affixed in the cab of said vehicle to accompany said vehicle whenever used in this State.

(d) Every "user" of liquefied gases or other liquid fuels in this State shall upon the 20th day of each calendar month pay to the State of Texas, at the office of the Comptroller, at Austin, Travis County, Texas, the amount of tax levied herein and due upon all the liquefied gases and other liquid fuels used by him during the calendar month next preceding, and at the same time such user shall make and deliver to the Comptroller, at his office in said City, County, and State, a report properly sworn to, showing the date said report was executed, the name and address of said user and the month which the report covers, and which report shall show separately the number of gallons of liquefied gases and other liquid fuels on hand at the beginning and end of each month, the number of gallons purchased, received, or acquired in any manner in Texas, the number of gallons imported into Texas in the fuel tank of a motor vehicle, or otherwise, and the number of gallons used in each motor vehicle separately, showing the make, horsepower, and license number of each said motor vehicle, and the number of gallons sold or otherwise disposed of. Said report shall also show complete information concerning each person from whom said products were purchased, including the name and address of such person, the date of each purchase, the number of gallons purchased from each person, and the kind of product purchased, showing liquefied gases separately from other liquid fuels purchased.

(e) It is expressly provided that any carrier-for-hire operating under a certificate of convenience and necessity issued by the Railroad Com-

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

mission of this State, and who is not engaged in the business of selling or distributing motor fuel or other taxable petroleum products, or in transporting such products for the purpose of sale or distribution for sale, and any person operating motor buses under franchises or licenses issued by municipalities, who purchase from bonded distributors holding permits under the terms of this Article, all the liquefied gases and other liquid fuels used by said carriers and said persons in propelling motor vehicles upon the public highways of this State, in quantities of not less than five hundred (500) gallons at a single purchase and delivery, shall, if the tax is paid by said carrier or person to said distributor at the rate of four (4) cents upon each gallon of said liquefied gases or other liquid fuels except diesel fuel, in which case the rate of eight (8) cents upon each gallon, so purchased or received, be exempt from the provisions of this Section requiring a user's permit to purchase, possess and use such products, and the other provisions incident to such user's permit. Provided, however, that said carriers and said persons shall be required to file information with the Comptroller showing the make, horsepower, motor number, highway license number, and the fuel tank capacity, including auxiliary fuel tanks, of each and every motor vehicle using said products, and information showing any additional motor vehicles acquired and using said products, and any changes in such motor vehicles being used. The said persons and carriers shall be required to secure upon each purchase or receipt of liquefied gases and other liquid fuels and keep for a period of two (2) years for the inspection of the Comptroller, or his authorized representatives, a manifest, containing all the information required to be recorded thereon by Section 9 (b) of this Article. Provided further, that any distributor who shall collect the said tax upon the sale or distribution of liquefied gases or other liquid fuels as hereinabove provided, shall be required to include the said tax so collected in the report and remittance required to be delivered to the Comptroller by Section 3 of this Article. Failure to report and pay over to the State of Texas any taxes collected by a distributor upon the sale or distribution of said products shall subject said distributor to all the liabilities, penalties, forfeitures, interest and costs provided in this Article for the failure to report and pay to the State of Texas motor fuel taxes collected.

(f) Any surety on any bond furnished by any user as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release, or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said thirty (30) day period. The Comptroller shall promptly on receipt of notice of such request notify the user who furnished such bond, and unless such user shall on or before the expiration of such thirty (30) day period file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Section provided, the Comptroller shall forthwith cancel the permit of said user. If such new bond shall be furnished by said user as above provided, the Comptroller shall cancel the bond for which such new bond was substituted. Provided further, that suit may be filed against any surety or sureties on any bond furnished by a user, without first resorting to or exhausting the assets of said user or without making said user, as principal obligor in said bond, a party to said suit.

(g) All taxes, penalties, interest, and costs due by any user to the State shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, regardless of the time such liens originated, upon the motor vehicles or other equipment in which said taxable liquefied gases or other liquid fuels were used.

(h) After this Article becomes effective as a law, it shall be unlawful for any distributor or dealer to make sales and deliveries of liquefied gases or other liquid fuels as defined herein into the fuel tank of any motor vehicle for the propulsion of motor vehicles, to any person who does not at the time hold and exhibit a valid use tax permit or certificate thereof issued by the Comptroller authorizing such purchases.

(i) From and after the effective date of this Article, no vehicle shall operate upon the highways of this State with connection from cargo to carburetor for the purpose of withdrawing gas, liquefied gas, or other liquid fuel from said cargo tank; and fuel tanks, including auxiliary fuel tanks, shall be separate and apart from cargo tank, with no connection by pipe, tube, valve, or otherwise. It shall be a violation of this Article to sell and deliver liquefied gas, or other liquid fuel, from any fuel tank or auxiliary fuel tank.

(j) Users as defined herein shall maintain for the inspection of the Comptroller, or his authorized representatives, complete records of purchases or other receipts of such liquefied gases and other liquid fuels for a period of two (2) years, and shall keep a complete record of the quantity of liquefied gases and other liquid fuels consumed separately in each motor vehicle in operation in this State. Such record shall include all the information to be contained in the report required herein to be filed with the Comptroller. Provided further, that all persons selling liquefied gases and other liquid fuels in this State shall keep for two (2) years a complete record of each sale of said products made to a user.

Nonresident users shall be required to exhibit records in this State upon request of the Comptroller or his authorized agents.

In event the records and reports of a user have not been maintained and filed with the Comptroller, as provided herein, the said Comptroller is hereby authorized to fix or establish the amount of tax, penalties, and interest due as shown by a verified audit of any records available to him or upon a basis of miles traveled by the motor vehicles of such user, and if the tax claim as developed by such procedure is not paid, the said claim shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima facie evidence of the contents thereof; provided, however, that the prima facie presumption of the correctness of said claim may be overcome, upon the trial, by evidence adduced by said user.

(k) In order to enforce the provisions of this Article, the Comptroller, or his authorized agents, any highway patrolman, officer of the Department of Public Safety, Sheriff, Constable, or their deputies, and all other peace officers, are empowered to stop any motor vehicle which might appear to be using liquefied gas or other products described herein for the propulsion of said vehicle, for investigation. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 14.

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Art. 7065b—15. Inspection of premises, books and records

For the purpose of enabling the Comptroller, or his authorized representatives, to determine the amount of tax collected and payable to the State and the amount of said tax accruing and due for motor fuel used by a distributor, refinery, dealer, user, or other person, dealing in or possessing motor fuel, crude oil, or other derivatives or condensates of crude petroleum or natural gas, or their products or to determine whether a tax liability has been incurred, they shall have the right to inspect any premises where motor fuel, crude petroleum, natural gas, or any other derivatives or condensates of crude petroleum, natural gas, or their products are produced, made, prepared, stored, transported, sold or offered for sale or exchange, examine all of the books and records required herein to be kept, and any and all books and records that may be kept incident to the conduct of the business of said distributor, refinery, or other person, dealing in or possessing motor fuel, crude oil, or other derivatives or condensates of crude petroleum, natural gas or their products. The said authorized officers shall also have the right, as an incident to determining said tax liability or whether a tax liability has been incurred, to examine and gauge or measure the contents of all storage tanks, containers, and other property or equipment, and to take samples of any and all products stored therein. For the foregoing purposes, said authorized officers shall also have the right to remain upon said premises for such length of time as will be necessary to fully determine said tax liability, or whether a tax liability has been incurred. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 15.

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Effective thirty days from and after final passage.

Art. 7065b—16. Cancellation, refusal of issuance, extension or reinstatement of license; grounds; notice; hearing; appeal

The Comptroller, or any duly authorized representative of said Comptroller, is hereby authorized to cancel, or to refuse the issuance, extension, or reinstatement of any motor fuel distributor's permit, any user's permit, or any refund dealer's license, as provided under the terms of this Article, to any person who has violated or has failed to comply with any duly promulgated rule and regulation of the Comptroller, or any of the provisions of this Article, including any of the following offenses, which may be applicable to such permittee or licensee: (a) failure or refusal to remit or pay to the State of Texas any tax levied herein, which said tax is shown to have accrued and to be owing to said State by a duly verified audit made by an authorized representative of the Comptroller, from any report filed with said Comptroller or from any books or records required to be kept or any books or records authorized to be audited by the provisions of this Article; (b) failure to file any return or report required under the provisions of this Article; (c) the making and filing with the Comptroller any false or incomplete return or report required under the provisions of this Article; (d) failure to keep any books and records for the period and in the manner required herein to be kept; (e) the falsifying, destroying, mutilating, removing from the State, or secreting any such books and records; (f) refusal to permit the Comptroller, Attorney General, or their authorized representatives, to inspect, audit, and examine any books and records required herein to be kept, or any pertinent records that may be kept, or to inspect any premises said persons are authorized herein to in-

spect; (g) refusal to permit the Comptroller, Attorney General, or their authorized representatives, to inspect, examine, measure, gauge, and take samples from any truck, tank, pump, or container said persons are authorized to inspect, examine, measure, gauge, and take samples from, under the provisions of this Article; (h) the forging or falsifying of any invoice of exemption herein provided, or the making of any false statement in any claim for refund filed with the Comptroller under the provisions of this Article; (i) the engaging in any business requiring a permit or license under the provisions of this Article, without obtaining and possessing a valid permit or license.

Before any permit or license may be cancelled or the issuance, reinstatement, or extension thereof refused, the Comptroller shall give the owner of such permit or license, or applicant therefor, not less than five (5) days notice of a hearing at the office of the Comptroller, in Austin, Travis County, Texas, granting said owner or applicant an opportunity to show cause before said Comptroller, or his duly authorized representative, why such action should not be taken. Said notice shall be in writing and may be mailed by United States registered mail to said owner or applicant, at his last known address, or may be delivered by a representative of the Comptroller, to said owner or applicant, and no other notice shall be necessary. The Comptroller may prescribe his own rules of procedure and evidence for such hearings.

If, after said hearing or opportunity to be heard, the permit or license is cancelled by the Comptroller, or his duly authorized representative, all taxes which have been collected or which have accrued, although said taxes are not then due and payable to the State, except by the provisions of this Section, shall become due and payable concurrently with the cancellation of such permit or license, and the permittee or licensee shall forthwith make a report covering the period of time not covered by preceding reports filed by said permittee or licensee, and ending with the date of cancellation and shall remit and pay to the State of Texas all taxes, which have been collected and which have accrued from the sale, use, or distribution of motor fuel or the use of liquefied gases or other liquid fuels in this State.

After being given notice of any such order of cancellation, it shall be unlawful for any person to continue to operate his business under any such cancelled permit or license.

An appeal from any order of the Comptroller, or his duly authorized representative, cancelling or refusing the issuance, extension, or reinstatement of any permit or license may be taken to the District Court of Travis County, Texas, by the aggrieved permittee, licensee, or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions, which shall be considered literally, viz: (1) all appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision, or ruling of the Comptroller or his duly authorized representative; (2) such proceedings shall have precedence over all other causes of a different nature; (3) all such cases shall be tried within ten (10) days from the filing thereof; (4) the order, decision, or ruling of the Comptroller, or his duly authorized representative, may be suspended or modified by the court pending a trial on the merits. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 16.

Approved May 1, 1941.

Effective thirty days from and after final passage.

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

Art. 7065b—17. Failure or refusal to collect or remit; suits; reports as evidence; certificate under seal of order, rule, bond or other instrument

(a) If any distributor fails or refuses to collect and remit or to pay to the Comptroller any tax, penalties, or interest within the time and manner provided by this Article, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim, in any judicial proceedings, any report filed in the office of the Comptroller by such distributor or his representative, or a certified copy thereof certified to by the Comptroller or his Chief Clerk, showing the amount of motor fuel sold by such distributor or his representative, on which such tax, penalties, or interest have not been remitted or paid to the State, or any audit made by the Comptroller or his representatives, from any books or other records required to be kept or that may be kept by said distributor, when signed and sworn to by such representative as being made from said books and records of said distributor or from any books or records of any person from whom such distributor has bought, received, delivered, or sold motor fuel, crude oil, or the derivatives of crude oil, or natural gas, or from the books and records of any transportation agency, who has transported any of said products, such report or audit shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the contents thereof; provided, however, that the prima facie presumption of the correctness of said report or audit may be overcome, upon the trial, by evidence adduced by said distributor.

(b) A certificate under the seal of the Comptroller executed by said Comptroller or his Chief Clerk, setting forth the terms of any order, rule, regulation, bond, or other instrument, referred to in this Article, and that the same had been adopted, promulgated, and published or executed and filed with the Comptroller, and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule, and regulation, and the publication thereof, without further proof of such promulgation, adoption, or publication, and without further proof of its contents, and the same provision shall apply to any bond or other instrument referred to herein. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 17.

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Effective thirty days from and after final passage.

Art. 7065b—18. Violations of act; penalties; venue of suits; injunction against collection of taxes; bond in lieu of payment into suspense account

If any person affected by this Article (a) shall fail to pay to the State of Texas any tax due and owing under the provisions of this Article, or (b) shall fail to keep for the period of time provided herein any books or records required, or (c) shall make false entry or fail to make entry in the books and records required to be kept, or (d) shall mutilate, destroy, secrete, or remove from this State, any such books or records, or (e) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives to inspect and examine any books or records required to be kept, or any other pertinent books or records, incident to the conduct of his business that may be kept, or (f) shall

make, deliver to, and file with the Comptroller a false or incomplete return or report, or (g) shall refuse to permit the Comptroller, or his authorized representatives, to inspect any premises where motor fuel, crude petroleum, natural gas, or any derivative or condensate thereof are produced, made, prepared, stored, transported, sold, or offered for sale or exchange, or (h) shall refuse permission to said persons to examine, gauge, or measure the contents of any storage tanks, vehicle tanks, pumps, or other containers, or to take samples therefrom, or (i) shall refuse permission to said persons to examine and audit any books, records, and gauge reports kept in connection with or incidental to said equipment, or (j) shall refuse to stop and permit the inspection and examination of any motor vehicle transporting motor fuel or using liquefied gas or liquid fuel, upon demand of any person authorized to inspect the same, or (k) shall fail to make and deliver to the Comptroller such return or report as required to be made and filed, or (l) shall forge or falsify any invoice of exemption herein provided, or (m) shall make any false statement in any claim for refund of motor fuel taxes as to any material fact required to be given, or if any said person (n) shall fail or refuse to comply with any provision of this Article or shall violate the same, or (o) shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller, or violate the same, he shall forfeit to the State of Texas as a penalty the sum of not less than Twenty-five Dollars (\$25), nor more than Five Hundred Dollars (\$500). Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid, shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided, however, that in addition to the penalties shown, if any distributor or user does not make remittance for any taxes collected, or pay any taxes due the State by said distributor or user, within the time prescribed by law, said distributor or user shall forfeit two (2) per cent of the amount due; and if not remitted or paid within twenty (20) days from the due date, he shall forfeit an additional eight (8) per cent penalty. All past due taxes and penalties shall draw interest at the rate of ten (10) per cent per annum.

The venue of any suit, injunction, or other proceeding at law or in equity available for the establishment or collection of any claim for delinquent taxes, penalties, or interest accruing hereunder and the enforcement of the terms and provisions of this Article, shall be in a court of competent jurisdiction in Travis County, Texas, or in any other court having venue under existing venue Statutes.

Provided further, that before any restraining order or injunction shall be granted against the Comptroller, or his authorized representatives, to restrain or enjoin the collection of any taxes, penalties, and interest imposed by this Article, the applicant therefor shall pay into the suspense account of the State Treasurer all such taxes, penalties, and interest showing to be due and owing to the State by any audit made by the Comptroller, or his duly authorized representative, when said audit has been certified to by the Comptroller or his Chief Clerk, and has been signed under oath by said authorized representative as having been made from the books and records of said applicant, whether or not required to be kept under the provisions of this Article, or from the books and records of any person from whom such applicant has purchased, received, delivered, or sold motor fuel, liquefied gases, or other liquid fuels, or from the books and records of any transportation agency, which has transported such products to or from said applicant. Provided, however, that

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

said applicant may, in lieu of paying said taxes, penalties, and interest into the suspense account of the State Treasurer, file with said Treasurer a good and sufficient surety bond in the amount and form and under the conditions provided in Section 1, Chapter 310, Acts of the Regular Session of the Forty-fifth Legislature,¹ and the provisions of said Section 1, Chapter 310, are hereby made applicable to any suit filed to restrain or enjoin the collection of any such taxes, penalties, and interest imposed by this Article. Any proceedings to enjoin the collection of such taxes, penalties, and interest, or the enforcement of any provision of this Article shall be in a court of competent jurisdiction in Travis County, Texas. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 18.

¹ Article 7047j, § 1.

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Penalties, fines, forfeitures or penal offenses as cumulative, see article 7083b.
Effective thirty days from and after final passage.

Art. 7065b—19. Comptroller authorized to measure containers; rules and regulations; design of vehicle tanks; testing and measuring of tanks; violations

(a) For the purpose of enforcing the collection of the tax levied by this Article, and to enable the Comptroller to ascertain whether or not the tax has been paid or accounted for on all motor fuel and other products which can be used as motor fuel, which may be transported in this State, the said Comptroller and his authorized representatives are hereby vested with the power and authority to measure, calibrate and determine the capacity in gallons of any vehicle tank or other container in which motor fuel, blending materials, liquefied gases and liquid fuels are transported. The Comptroller is hereby given the power and authority to promulgate and enforce any rules and regulations, which he may deem necessary to the best enforcement of the provisions of this Section.

All vehicle tanks, and all devices designed to be attached thereto and used in connection therewith, and all other containers in which any of the foregoing products are transported, shall be of such design and construction that they do not facilitate the perpetration of fraud. Each compartment of said vehicle tank or other container shall be conspicuously marked on, or immediately under, the dome thereof with a designating figure, or letter and the capacity of said compartment and each delivery faucet shall be marked with the capacity and a corresponding figure or letter to indicate the compartment of which it is the outlet. In addition, the total capacity of all compartments of each vehicle tank shall be conspicuously marked in letters of not less than two (2) inches in height on the rear of each such vehicle tank. The Comptroller's test or certificate number shall also be printed on the rear of each vehicle tank. When a motor vehicle carrying a vehicle tank is equipped with side tanks or other auxiliary tanks or compartments, such additional tanks and compartments shall comply with all of the specifications applicable to vehicle tanks. No vehicle shall transport motor fuel upon the public highways of this State with connection from any cargo tank or container to the carburetor for the purpose of withdrawing motor fuel from said cargo tank or container, and fuel tanks, including auxiliary fuel tanks shall be separate and apart from the cargo tank, with no connection by pipe, tube, valve or otherwise. It shall be a violation of this Article to sell or distribute motor fuel from any fuel tank or auxiliary fuel tank connected with the carburetor of any motor vehicle or to withdraw said motor fuel from any such fuel tank or auxiliary fuel tank for

the purpose of sale. The measurement certificate shall be carried with the vehicle tank for which it is issued and the Comptroller or his authorized representatives shall have the authority to impound and hold any truck, for a period not to exceed seventy-two (72) hours, until said certificate is produced. The owner of any vehicle tank or other container tested and measured may be required to pay a reasonable fee to any city or any person for the water used in the measurement of such tank or container.

If any vehicle tank or other container shall, after having been tested, become damaged, repaired or modified in any way which might affect the accuracy of measurement of its receipts and deliveries, it shall not again be used for the sale or transportation of motor fuel, blending materials, liquefied gases and liquid fuels until officially reinspected, and, if deemed necessary, retested and remeasured.

(b) From and after the effective date of this Article, and before using any vehicle tank or other containers in the transportation of motor fuel, blending materials, liquefied gases and liquid fuels, except in quantities of thirty (30) gallons or less in the fuel tank feeding the carburetor of the motor vehicle, every person shall have every such vehicle tank or other containers, subject to the provisions of this Section, tested, measured and calibrated by a representative of the Comptroller and shall obtain a measurement certificate from said Comptroller, showing the capacity of each such vehicle tank and other container. Provided, however, that the Comptroller may, at his discretion, accept any weights and measures certificate issued by the Division of Weights and Measures of the Department of Agriculture, State of Texas, without retesting or remeasuring said vehicle tank or containers.

It is further provided that carriers-for-hire operating under valid permits or certificates of convenience and necessity issued by the Railroad Commission of the State of Texas, and not engaged in transporting motor fuel or other taxable petroleum products for the purpose of sale or distribution for sale, and persons operating motor buses under franchises or licenses issued by municipalities, shall not be required to produce for inspection or measurement or to have tested, measured and calibrated, any fuel tank with a capacity not exceeding one hundred (100) gallons, connected to and feeding the carburetor of any motor vehicle owned or operated by said carriers or said persons, when such fuel tank is used exclusively for furnishing fuel to propel the motor or engine of said motor vehicle, and none of the contents thereof is sold or transported for sale, distribution or delivery to any other person. Provided, however, that this exemption shall not apply to the fuel tank of any motor vehicle used to transport motor fuel or other taxable petroleum products for sale or distribution for sale.

All authorized representatives of the Comptroller shall have the power and authority to inspect, test, measure, or remeasure vehicle tanks and other containers used to transport motor fuel, blending materials, liquefied gases and other liquid fuels, or containers from which said products are sold, or to correct, condemn or mark "out of order" any such vehicle tanks or containers which may be so constructed as to prevent accurate measurement or which are not constructed in conformity with the provisions of this Act or the rules and regulations promulgated hereunder.

(c) Whoever shall remove, obliterate, or change any measurement certificate, tag, marking, or device made by any authorized representative of the Comptroller, or placed upon any vehicle tank or other container, or shall refuse or neglect to produce for inspection and measurement, at

the time and place fixed by the Comptroller, not to exceed one hundred (100) miles from the point which is the customary base of operation of such truck, any vehicle tank or other container in his possession or under his control, or shall transport such products in any vehicle tank or other container which has been condemned or tagged "out of order" by any authorized representative of the Comptroller, or whoever shall fail to comply with any provision of this Section or any reasonable rule and regulation promulgated under the provisions of said Section, or shall violate the same, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 19.

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Penalties, fines, forfeitures or penal offenses as cumulative, see article 7083b.

Art. 7065b—20. Enforcement of act; stopping vehicles; seizure; forfeiture; proceeding; hearing; decree; sale; summary proceedings

(a) In order to enforce the provisions of this Article, the Comptroller, his authorized representative, or any Highway Patrolman, Sheriff, Constable, and their deputies, and all other peace officers are empowered to stop any motor vehicle which might appear to be transporting motor fuel or other derivatives of crude petroleum or natural gas, or their products, as cargo, for the purpose of examining the manifest required to be carried, for examination of the commodity in transit, to take samples of the cargo, and for such other investigations as could reasonably be made to determine whether the cargo was motor fuel or other derivatives of crude petroleum, natural gas, or their products, and whether the manifest indicates that the State tax was a part of the consideration involved in the sale or distribution of any motor fuel carried. If, upon said examination, it is found that the driver of any such motor vehicle transporting motor fuel does not possess or refuses to exhibit a manifest required herein, or if said manifest carried is false or incomplete, said authorized officers shall impound and take possession of the said motor vehicle and its contents, and unless proof is produced within seventy-two (72) hours from the beginning of such impoundment that the motor fuel has been sold with the State tax as a part of the consideration therefor, said motor vehicle and its contents shall be delivered to the Comptroller or his authorized representatives for forfeiture and sale as hereinafter provided.

(b) All motor fuel on which taxes are imposed by this Article, which shall be found in the possession, or custody, or within the control of any person for the purpose of being sold, transported, removed, or used by him in fraud of the Motor Fuel Tax Law, and all motor fuel which is removed or is deposited, stored, or concealed in any place with intent to avoid payment of taxes levied thereon, and any automobile, truck, tank truck, boat, conveyance, or other vehicle whatsoever used in the removal or transportation of such motor fuel for such purposes, and all equipment, paraphernalia, storage tanks, or other tangible personal property incident to and used for such purpose found in the place, building, or vehicle where such motor fuel is found may be seized by the Comptroller, and the same shall be from the time of such seizure forfeited to the State of Texas, and a proceeding in the nature of a proceeding in rem shall be filed in a court of competent jurisdiction in the county of seizure to maintain such seizure and declare and perfect said forfeiture as hereinafter provided. All such motor fuel, vehicles, and

property seized as aforesaid, remaining in the possession or custody of the Comptroller, Sheriff, or other officer for forfeiture or other disposition as provided by law, shall be deemed to be in the custody of law and irrepleviable for a period of thirty (30) days, after which time, if no suit has been filed or summary proceedings begun for forfeiture as hereinafter provided, such property shall be subject to replevy.

The Comptroller, when making the seizure aforesaid, shall immediately make a written report thereof showing the name of the agent or representative making the seizure, the place or person where and from whom such property was seized, and an inventory of same, and appraisal thereof at the usual and ordinary retail price of the article seized, which report shall be prepared in duplicate, signed by the agent or representative so seizing, the original of which shall be given to the person from whom said property is taken, and a duplicate copy of which shall be filed in the office of the Comptroller and shall be open to public inspection.

The Attorney General, or the District or County Attorney of the county of seizure, shall, at the request of the Comptroller, file in the county and court aforesaid forfeiture proceeding in the name of the State of Texas as plaintiff, and against the owner or person in possession as defendant, if known, and if unknown, then against said property seized and sought to be forfeited. Upon the filing of said proceeding, the Clerk of said court shall issue notice to the owner or person in possession of such property to appear before such court upon the date named therein, which shall not be less than two (2) days from service of such notice, to show cause why the forfeiture aforesaid should not be declared, which notice shall be served by the Sheriff of said county. In the event the defendant in said proceeding is a nonresident of the State or his residence is unknown, or in the event the name of such defendant is unknown, upon affidavit by the Comptroller to this effect, notice or process shall be served or published in the mode and manner provided by existing Statutes for service of citation upon nonresidents or unknown defendants, or defendants whose residence is unknown; provided, however, such proceeding may be heard at any time after ten (10) days from completion of the service of such process or the first publication of such notice. And in such cases, the court shall appoint an attorney to represent such defendant, who shall have the rights, duties, and compensation as provided by existing Statutes in cases of attorneys appointed to represent nonresidents and unknown defendants.

In the event final judgment is rendered in the forfeiture proceeding aforesaid, maintaining the seizure, and declaring and perfecting the forfeiture of said seized property, the court shall order and decree the sale thereof to the highest bidder by the Sheriff at public auction in the county of seizure, after ten (10) days' notice by advertisement at least twice in any legal publication of such county, and the proceeds of such sale, less expenses of seizure and court costs, shall be paid into the State Treasury, and, after crediting the motor fuel tax fund with the tax, penalties and interest due, the balance of said proceeds, if any, shall be allocated as the Motor Fuel Tax is herein allocated. In the event the District or County Attorneys file and prosecute such cases, a fee of Fifteen Dollars (\$15) shall be paid to such officers in addition to all other fees allowed by law, which fee shall be collected as court costs out of the proceeds of such sale.

(c) In lieu of the forfeiture proceeding aforesaid, the Comptroller may elect to sell the motor fuel and property seized by him in cases where such property appears by the report or receipt of the officer seizing same

to be of the appraised value of Five Hundred Dollars (\$500), or less, by the following summary proceedings:

(1) The Comptroller or his authorized representatives shall notify the person from whom such property was seized either in person or by registered mail if said person's address is known and if unknown the Comptroller shall publish a notice in some newspaper of the county where the seizure was made, describing the property seized and stating the time, place, and cause of their seizure, and requiring any person claiming such property, or any interest therein or thereto, to appear and make such claim within fifteen (15) days from the date of such publication of such notice.

(2) Any person claiming such property so seized, or any interest therein or thereto, within the time specified in such notice, may file with the said Comptroller his claim, stating his interest in the property seized, and may execute a bond to the State of Texas in the penal sum of Two Hundred and Fifty Dollars (\$250), with sureties to be approved by said Comptroller, conditioned that, in case of the establishment of forfeiture of the articles so seized, by final judgment in a court of competent jurisdiction as hereinabove provided, the obligors shall pay all the costs and expenses of the proceeding to obtain such forfeiture; and upon the delivery of such bond to the Comptroller, he shall transmit the same with a certified copy of the report of receipt of the property seized, filed in his office, to the Attorney General, or the County or District Attorney of the county of seizure, and forfeiture proceedings shall be instituted and prosecuted thereon in the court of competent jurisdiction as provided by law.

(3) If no claim is interposed and no bond is given within the time above specified, the Comptroller shall give ten (10) days notice of a sale of the property under seizure by publication two (2) times in a newspaper of the county of seizure, and, at the time and place specified in such notice, shall sell the property so seized at public auction, and after deducting expenses of seizure, appraisal, custody, and sale, he shall, after crediting the Motor Fuel Tax Fund with the tax, penalties, and interest due, deposit the balance of such proceeds, if any, in the State Treasury, which shall be allocated to the funds to which the motor fuel tax levied hereunder is apportioned. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 20.

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Art. 7065b—21. Seizure, forfeiture and sale as affecting criminal prosecution

The seizure, forfeiture, and sale of motor fuel and any other property named hereinabove under the terms and conditions hereinabove set out, and whether with or without court action, shall not be or constitute any defense or justification to the person owning or having control or possession of such property from criminal prosecution for any act or omission made an offense hereunder, or operate to exempt or relieve said person from liability to the State to pay penalties provided by this law, with or without suit therefor. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 21.

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Art. 7065b—22. Waiver of forfeiture proceedings on paying double amount of tax

Authority is hereby conferred upon the Comptroller to waive any proceedings for the forfeiture of any of the property seized under the provisions of this Article, or any part thereof, provided that the offender shall pay into the State Treasury through the Comptroller a penalty equal to twice the amount of the tax due on the motor fuel plus all other costs in connection with such seizure. A record of all such settlements and waivers of forfeiture shall be kept by the Comptroller and shall be open to public inspection.

If, upon examination of records or other investigation, the Comptroller finds that motor fuel has been sold without the tax levied herein having been paid to the State, or accounted for by a bonded distributor, he shall have the power to require such person to pay into the State Treasury through the Comptroller the taxes due and a penalty equal to the amount of such taxes due. If the person who has made such sale is unable to furnish sufficient evidence to the Comptroller that said tax has been paid, or accounted for by a bonded distributor, the prima facie presumption shall arise that such motor fuel was sold without said tax having been paid. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 22.

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Art. 7065b—23. Collection of taxes, penalties, costs and interest; rules and regulations; violation

It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes, penalties, costs, and interest due or that may become due under the provisions of this Article, and to that end the Comptroller is hereby vested with all of the power and authority conferred by this Article. Said Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Article or the Constitutions of this State or the United States, for the enforcement of the provisions of this Article and the collection of the revenues levied hereunder.

No rule or regulation for which a penalty is prescribed by the Comptroller shall be adopted by the Comptroller except after notice and hearing. Notice of such hearing shall be given by publication one time in three (3) newspapers of general circulation in this State. Such notice shall specify the date and place of hearing and the subject matter of the proposed rule or regulation and shall constitute sufficient notice to all parties. The date of hearing shall be not less than ten (10) days from the date of publication of notice. At such hearing any person, either by himself or by an attorney, may present relevant facts either in support or opposition thereto. The Comptroller shall, upon a finding of facts, have the authority and power to adopt, modify, nullify, or alter such rules and regulations.

Upon the final adoption of any rule or regulation, the Comptroller shall cause the same to be published one time in a newspaper of general circulation in this State and the same shall have the force and effect of law as of the date of publication, unless a subsequent date is specified therein. The publication thereof shall be sufficient notice to all parties. Any person who violates any valid rule and regulation or any provision

thereof shall be subject to the penalty as prescribed in Section 26 of this Article.¹ Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 23.

¹ Article 7065b—26.

Approved May 1, 1941.

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Art. 7065b—24. Comptroller may issue subpoenas, compel attendance of witnesses, administer oaths, take depositions; other powers; failure of witness to obey

The Comptroller, or any duly authorized representative under the direction of the Comptroller, shall, for the purpose contemplated by this Article, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions with-in or without the State of Texas, as now provided by law, and compel the production of pertinent books, accounts, records, and documents.

If any witness refuses to obey such subpoena or refuses to produce any pertinent books, accounts, records, or documents, named in such subpoena and in the possession or control of said witness, or if any witness in attendance before the Comptroller or one of his authorized representatives refuses without reasonable cause to be examined or to answer any legal or pertinent question, or to produce any book, record, paper, or document when ordered to do so by the Comptroller or his authorized representative, said Comptroller or representative shall certify the facts and the names of the witnesses so failing and refusing to appear and testify, or refusing access to the books, records, papers, and documents, to the district court having jurisdiction of the witness; said court shall there-upon issue proper summons to said witness to appear before the said Comptroller, or his authorized representatives, at a place designated with-in the jurisdiction of said court, on a day to be fixed, to be continued as occasion may require, and give such evidence and open for inspection such books, records, papers, and documents as may be required for the purpose of enforcing the provisions of this Article. Upon failure to obey such summons the judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, paper, or document, which he was ordered to bring or produce, he shall forthwith punish the offender as for contempt of court.

Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Comptroller, or his authorized representatives, shall be paid their fees and mileage by the Comptroller out of funds appropriated for court costs to said Comptroller.

The Comptroller may, if necessary to enforce the provisions of this Section, require such number of his representatives as he deems necessary to enforce the provisions hereof to subscribe to the constitutional oath of office, a record of which shall be filed in the office of the Comptroller. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 24.

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Art. 7065b—25. Special fund for administration and enforcement; disposition of taxes collected

Before any diversion or allocation of the motor fuel tax collected under the provisions of this Article is made, one (1) per cent of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Article, and so much of the said proceeds of one (1) per cent of the motor fuel tax paid monthly as may be needed in such administration and enforcement be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall at the end of each biennium revert to the respective funds or accounts in proper proportions to which the Motor Fuel Tax Fund is allocated at the end of each biennium.

The Treasurer shall, after making the deductions for refund purposes, as provided in Section 13 of this Article,¹ and for the enforcement of the provisions of this Article, allocate and deposit the remainder of the taxes collected under the provisions of this Article, in the proportions as follows: One fourth of such tax shall go to, and be placed to the credit of, the Available Free School Fund; one fourth of same shall go to, and be placed to the credit of, the fund known as the County and Road District Highway Fund, and the remaining one half of such tax shall go to, and be placed to the credit of, the State Highway Fund, for the construction and maintenance of public roads of this State, constituting and comprising the system of the State highways of Texas as designated by the State Highway Commission of Texas. The said allocation provision shall be effective and remain in force subject to further allocation or appropriation by the general or any special appropriation bill. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 25.

¹ Article 7065b—13.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—26. Penalties for certain violations

If any dealer (a) shall fail to keep for a period of two (2) years in Texas any books and records required to be kept by a dealer, or (b) if any dealer or agent, employee, or representative of a dealer shall destroy, mutilate, or secrete any books and records required to be kept, or (c) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives, to inspect, examine, and audit any books and records required to be kept, or any other books or records incident to the conduct of the business of said dealer that may be kept, or (d) shall refuse to present such books and records for inspection, examination, and audit upon demand of the Comptroller, Attorney General, or their authorized representatives, or (e) shall knowingly make any false entry or fail to make entries in the books and records required to be kept by a dealer, or (f) shall fail to issue and deliver to the purchaser or recipient a manifest containing all the information required thereon, upon each sale, distribution, or delivery of motor fuel, or other derivatives of crude oil or natural gas, in quantities of thirty (30) gallons or more, or (g) if any refund dealer shall refuse to surrender his refund dealer's license to the Comptroller upon suspension or cancellation of said license, or (h) shall refuse to surrender all invoice of exemption forms upon the suspension or cancellation of said license, or (i) shall knowingly fail to notify the Comptroller within three (3) days after any invoice of exemption form has been lost or destroyed, or if any dealer or other per-

son (j) shall refuse to permit the Comptroller, Attorney General, or their authorized representatives to inspect, examine, and take samples from pumps, containers, or other equipment in which motor fuel or other derivatives of crude petroleum or natural gas are stored, or from which said products are sold, distributed, or used, or (k) shall refuse to permit the inspection of any equipment or any premises in or upon which said products are stored, sold, or distributed, or (l) shall conceal any derivatives or condensates of crude petroleum or natural gas for the purpose of violating any provision of this Act, or (m) shall transport motor fuel, liquefied gas, or other liquid fuels in a motor vehicle with pipe or tube connection from the cargo tank or container to the carburetor of said motor vehicle, or (n) shall sell or distribute motor fuel from a fuel tank or auxiliary fuel tank with a direct or indirect connection to the carburetor of a motor vehicle, or (o) shall sell and deliver liquefied gases or other liquid fuels into the fuel tank of any motor vehicle to any person who refuses or fails to exhibit a user's permit certificate authorizing the use of such products to propel a motor vehicle upon the public highways, or (p) shall use liquefied gases or other fuel for the propulsion of a motor vehicle upon the public highway without a valid user's permit certificate being posted in the cab of said motor vehicle, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 26.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Penalties, fines, forfeitures or penal offenses as cumulative see article 7083b.

Art. 7065b—27. Penalties for certain other violations; effect of conviction; venue of prosecution

(a) Whoever shall knowingly transport in any manner any motor fuel, casing-head gasoline, drip gasoline, natural gasoline, or absorption gasoline under a false manifest, or (b) whoever shall knowingly transport any of the foregoing named commodities in any quantity, required by law to be recorded upon a manifest, without then and there possessing and exhibiting upon demand by an authorized officer, a manifest, containing all the information required to be shown thereon, or (c) while transporting any of the foregoing named commodities, shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or (d) shall refuse to permit the examination of his records and cargo by said authorized person, or (e) shall refuse to surrender his motor vehicle and cargo for impoundment when ordered to do so by a person authorized hereunder to impound said motor vehicle and cargo, or (f) shall refuse to permit said authorized person to inspect any plant or premises where motor fuel is refined, processed, made, or produced, or (g) shall refuse to permit said authorized person to inspect any plant or premises from which a first sale or distribution of motor fuel is made, or (h) shall refuse to permit said authorized persons to examine and gauge or measure the contents of all storage tanks and containers on said premises or to take samples therefrom, or (i) shall refuse to permit said authorized persons to inspect all equipment on said premises, or (j) whoever shall knowingly purchase or receive from a distributor motor fuel upon which a tax is required to be paid, without said tax being a part of the consideration involved in such transaction, or (k) whoever shall wilfully forge or falsify any invoice of exemption prescribed herein, or (l) whoever shall wilfully and knowingly make any false statement in any claim

for refund delivered to or filed with the Comptroller, or (m) whoever as distributor shall make a first sale, distribution, or use of any motor fuel upon which a tax is required to be paid, without having at the time of said sale, distribution, or use, a valid permit as required, or (n) whoever as agent, employee, or representative of a distributor, shall make a first sale, distribution, or use of motor fuel knowing that such distributor does not have a valid permit, or (o) whoever as distributor, or as the agent, employee, or representative of a distributor, shall knowingly make, deliver to, and file with the Comptroller a false return or report or an incomplete return or report, or (p) whoever, as distributor, shall fail to make and deliver to the Comptroller a return or report as required to be made and delivered to said Comptroller, or (q) shall fail to keep for a period of two (2) years in Texas any books and records required to be kept by a distributor, or (r) whoever as distributor, or the agent, employee, or representative of a distributor, shall destroy, mutilate, secrete, or remove from the State any of the books and records required to be kept, or (s) shall refuse to permit the Comptroller, the Attorney General or their authorized representatives, to inspect, examine, and audit any books and records required to be kept, or any other pertinent books or records incident to the conduct of the business that may be kept, or (t) shall knowingly make any false entry or fail to make entries in the books and records required to be kept by a distributor, or (u) shall wilfully and knowingly fail or refuse to deliver a manifest upon the first sale or distribution of motor fuel to the purchaser or recipient of said motor fuel, or (v) whoever as user of liquefied gases or other liquid fuels, shall fail to make and deliver to the Comptroller a report as required to be made and delivered to said Comptroller, or (w) whoever as user or as agent, employee, or representative of a user of liquefied gases or other liquid fuels shall knowingly make and deliver to the Comptroller a false report or an incomplete report, shall be guilty of a felony, and upon conviction, shall be punished by confinement in the State penitentiary for not more than five (5) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000), or by both such fine and jail imprisonment.

In addition to the foregoing penalties, it is herein provided that a felony conviction for any of the above-named offenses shall automatically forfeit the right of said convicted person to obtain a permit as distributor of motor fuel, or user of liquefied gases or other liquid fuels, for a period of two (2) years.

Provided that if any penalties prescribed in Section 26¹ overlap as to offenses which are also punishable under Section 27 of this Article,² then the penalties prescribed in the said Section 27 shall apply and control over all such penalties.

Venue of prosecution under Section 27 shall be in Travis County, Texas, or in the county in which the offense occurred. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 27.

¹ Article 7065b—26.

² This article.

Approved May 1, 1941.

Effective thirty days from and after final passage. Penalties, fines, forfeitures or penal offenses as cumulative, see article 7083b.

Art. 7065b—28. Repeal; effect

Chapter 44, Acts of the Regular Session of the Forty-third Legislature,¹ Chapter 240, Acts of the Regular Session of the Forty-fourth Legislature,¹ Chapter 3, Acts of the Regular Session of the Forty-sixth

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

Legislature,² Chapter 8, Acts of the Regular Session of the Forty-sixth Legislature,³ are hereby repealed, and this Article shall prevail over all other laws or parts of laws that conflict herewith. Provided, however, that all taxes, penalties, and interest accruing to the State of Texas, by virtue of the repealed Acts before the effective date of this Article, shall be and remain valid and binding obligations due the State for all taxes accruing under the provisions of prior or existing gasoline or motor fuel tax laws, and all such taxes now or hereafter becoming delinquent to the State of Texas before the effective date of this Article are hereby expressly preserved and declared to be legal and valid obligations to the State and the liens and other obligations created and bonds executed to secure their payment are hereby declared to be and shall remain in full force and effect. And further provided, that no offense committed and no fine, forfeiture, or penalty incurred under such above repealed Acts before the effective date of this Article, shall be affected by the repeal herein of any such laws, but the punishment of such offense and the recovery of such fines and forfeitures shall take place as if the law repealed had remained in force. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 28.

¹ Articles 7065a—1 to 7065a—18; Vernon's Rev.Pen.Code, arts. 141a—1, 141a—2.

² Articles 7065a—7, 7065a—12, 7065a—13, 7065a—13 note.

³ Article 7065a—6.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7065b—29. Partial invalidity

If any Section, subsection, sentence, clause, or phrase of this Article, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Article. The Legislature hereby declares that it would have passed this Article and each Section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the Sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 29.

Approved May 1, 1941.

Effective thirty days from and after final passage.

Art. 7066a. Repealed. Acts 1941, 47th Leg., p. 269, ch. 184, Art. III, §

1. Eff. May 1, 1941

Occupation tax on sulphur producers and saving clause as to sulphur produced prior to effective date of Acts 1941, 47th Leg.,

p. 269, ch. 184, Art. III, § 1, see Article 7047 subd. 40b.

Art. 7066b. Motor bus companies; motor carriers; contract carriers; occupation tax

(a) Each individual, partnership, company, association, or corporation doing business as a "motor bus company" as defined in Chapter 270, Acts Regular Session of the Fortieth Legislature, as amended by the Acts of 1929, First Called Session of the Forty-first Legislature, Chapter 78,¹ or as "motor carrier" or "contract carrier" as defined in Chapter 277, Acts Regular Session of the Forty-second Legislature,² over and by use of the public highways of this State, shall make quarterly on the first day of January, April, July, and October of each year, a report to the Comptroller, under oath, of the individual, partnership, company, association, or corporation by its president, treasurer, or secretary, show-

ing the gross amount received from intrastate business done within this State in the payment of charges for transporting persons for compensation and any freight or commodity for hire, or from other sources of revenue received from intrastate business within this State during the quarter next preceding. Said individual, partnership, company, association, or corporation at the time of making said report, shall pay to the State Treasurer an occupation tax for the quarter beginning on said date equal to two and two tenths (2.2) per cent of said gross receipts, as shown by said report. Provided, however, carriers of persons or property who are required to pay an intangible assets tax under the laws of this State, are hereby exempted from the provisions of this Article of this Act.

(b) It is further provided that individuals, partnerships, companies, associations, or corporations engaged exclusively in the business of transporting logs or timber in its natural state, are hereby exempted from the provisions of this Article of this Act levying an occupational tax upon the gross receipts; provided that if this Act or any section, subsection, sentence, clause, or phrase thereof is held unconstitutional or invalid by reason of the inclusion of this subsection, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause, or phrase thereof without this subsection.

(c) The tax herein levied is in addition to any other fees and ad valorem taxes otherwise assessed.

(d) The taxes herein levied when paid shall be and hereby are allocated as provided hereafter in this Act. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XIV, § 1.

¹ Article 911a; Vernon's Rev.Pen.Code, art. 1690a.

² Article 911b, §§ 1-13b, 15a, 17-19, 22b, 22c; Vernon's Rev.Pen.Code, art. 1690b.

Approved May 1, 1941.

Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7066b—1. "Intrastate business" defined

The term "intrastate business" as used in Article XIV, Section 1 (a) of House Bill No. 8, Acts of the Regular Session of the Forty-seventh Legislature shall mean and apply only to that portion of revenues derived from transportation subject to the regulation of the Railroad Commission of Texas. Acts 1941, 47th Leg., p. 645, ch. 389, § 1.

Approved and effective May 29, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

"intrastate business" as used in Article XIV, Section 1 (a) of House Bill No. 8, Acts of the Regular Session, Forty-seventh Legislature; and declaring an emergency. Acts 1941, 47th Leg., p. 645, ch. 389.

Title of Act:

An Act defining and limiting the term

Art. 7070. 7382 Telephone companies

(1) Each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines, or any telephones within this State and charging for the use of same, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of

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making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one half (1 1/2) per cent of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to one and three-fourths (1 3/4) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand, five hundred (2,500) inhabitants, and not more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to two and two hundred seventy-five thousandths (2.275) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census.

"(2) No city or other political subdivision of this State, by virtue of its taxing power, police power, or otherwise, shall impose an occupation tax or charge of any sort, for the privilege of doing business, upon any person, corporation, or association required to pay an occupation tax under this Article; provided, that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided or not prohibited by law, or any tax now imposed by franchise, and provided further that this Article shall not affect any contract now in existence or hereafter made between a city and the holder of a franchise. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. IV, § 1.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Section 2 of Article IV of the amendatory Act of 1941, cited to the text, pro-

vided that the tax levied in Article 7070 shall be allocated as provided in such Act. See Article 7083a.

Art. 7077. 7389 Permit not granted until tax paid

Lien of taxes, fines, penalties and interest, see article 7083b.

Art. 7083a. Allocation of revenue derived from certain occupation and gross receipts taxes; appropriations and allocations for certain funds

Section 1. All revenue, other than that part allocated for enforcement purposes, derived and collected from the taxes levied by Chapter 241, Acts of the Regular Session, Forty-fourth Legislature,¹ and any amendments thereof or thereto, shall be hereafter and is hereby allocated as follows: one fourth (1/4) to the Available School Fund of the State of Texas and three fourths (3/4) into the Clearance Fund provided by this Act. All laws and parts of laws in conflict with this section are repealed to the extent of such conflict only.

Sec. 2. All revenue derived from and collected under Article VIII of this Act¹ shall be paid into the General Revenue Fund of the State of Texas. All revenue derived from and collected under Article XIII of this Act² shall be and is allocated as now provided by law. All revenue derived from and collected under Article XVII of this Act³ shall be allocated as provided in Section 25 of said Article.⁴

From all revenue derived and collected under the provisions of Articles I, II, III, IV, V, VI, VII,⁵ (subdivision a), IX, X, XI, XII, XIV, XV, XVI, and XVIII of this Act after deduction of that portion provided for enforcement purposes, there shall be allocated to the Available School Fund one-fourth (1/4) of the total sum collected thereunder and same shall be deposited and credited to the Available School Fund in the State Treasury.

After deduction of the allocation provided in the next preceding paragraph to be apportioned to the Available School Fund, the balance of the funds collected under Articles I, II, III, IV, V, VI, VII (subdivision a), IX, X, XI, XII, XIV, XV, XVI, and XVII of this Act⁵ shall be deposited in a Clearance Fund in the Treasury, and from such fund the revenues so derived and collected shall be transferred and allocated by the State Treasurer as follows:

(1) There shall be appropriated and allocated, transferred, and credited to a special fund in the Treasury, to be known as the "Blind Assistance Fund," for the purpose of providing and administering assistance to the blind in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939,⁶ such part of Four Hundred Thousand (\$400,000.00) Dollars, as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred and credited to such Fund the sum of Four Hundred Thousand (\$400,000.00) Dollars for each fiscal year thereafter, said amount to be provided on a basis of equal monthly installments.

(2) There shall be appropriated and allocated, transferred, and credited to a special fund in the Treasury, to be known as the "Children Assistance Fund," for the purpose of providing and administering assistance to dependent and destitute children in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939,⁶ such part of One Million Five Hundred Thousand (\$1,500,000.00) Dollars as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred and credited to such Fund One Million Five Hundred Thousand (\$1,500,000.00) Dollars for each fiscal year thereafter, said amount to be provided on a basis of equal monthly installments.

(3) Beginning with the fiscal year starting on September 1, 1941, and annually thereafter, there is hereby allocated and appropriated to the Teacher Retirement System of Texas in accordance with the provisions of Senate Bill No. 47, Acts of the Regular Session, 47th Legislature, 1937,⁷ and any amendments thereto, a sum each year equivalent to the contributions of the members of the Teacher Retirement System during said year. Said amounts are hereby allocated and appropriated and shall be paid to the Teacher Retirement System in equal monthly installments beginning September 1, 1941, and monthly thereafter based upon the annual estimate by the State Board of Trustees of the Teacher Retirement System of the Contributions to be received from the members of said System during said year; provided further, in the event said estimate of the contributions of the members of the System shall vary from the actual amount of the teachers' contributions during the year, then such adjustments shall be made at the close of each fiscal year as may be required.

There is likewise hereby allocated and appropriated to the Teacher Retirement System of Texas beginning on the first day of the first month after the effective date of this Act, and monthly thereafter, the sum of Fifty Thousand (\$50,000.00) Dollars, which shall be paid by the State

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Treasurer to the Teacher Retirement System until such time as the total additional amounts so deposited by the State of Texas shall be equivalent to the total amount contributed by the members of the Retirement System from September 1, 1937, to September 1, 1941, as certified by the State Board of Trustees of the Teacher Retirement System.

(4) After the above allocations and payments have been made from such Clearance Fund, there shall be paid therefrom into the Old-Age Assistance Fund on the first of each month, such sum, which, taken with other sums paid into such Old-Age Assistance Fund by virtue of other laws still in force, will equal a total of One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars, and such sum is hereby appropriated for the use provided by law for such Old-Age Assistance Fund. Should such payments into the Old-Age Assistance Fund by virtue of other laws exceed One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars, in any one month, then not more than One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars of such shall be expended for old-age assistance in such month, and the remainder in excess thereof shall be withheld until the succeeding month or months and be taken into consideration in allocating funds from the Clearance Fund to the Old-Age Assistance Fund, and the amount paid in from the Clearance Fund into the Old-Age Assistance Fund shall be reduced accordingly to the end that a stationary sum of One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars per month be available from State funds for old-age assistance; provided, however, for the balance of the fiscal year ending August 31, 1941, the payments into the Old-Age Assistance Fund shall be made in the same manner as provided above. However, in the event the total paid from all sources into the Old-Age Assistance Fund including the amount allocated to the Old-Age Assistance Fund from the Clearance Fund on the first day of each month as provided above, does not amount to One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars for each month after the effective date of this Act, then in that event, the first revenue collected and which ordinarily would be paid into the General Revenue Fund of the State of Texas after the first day of each month shall be set aside, allocated, transferred, credited, and appropriated to the Old-Age Assistance Fund to the extent and in such sums as are necessary to provide One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars in the Old-Age Assistance Fund for each month with the effective date of this Act, including the month of June, 1941 and through the month of August, 1941. All laws in conflict with this section are hereby repealed to the extent of such conflict only.

(5) All other revenue or money of any kind or character remaining in such Clearance Fund shall be paid into the General Revenue Fund of the State of Texas. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XX, as amended, Acts 1941, 47th Leg., p. 774, ch. 481, § 1.

¹ Article 7084.

² Article 7105.

³ Articles 7065b—1 to 7065b—29.

⁴ Article 7065b—25.

⁵ Articles 7047, 7047b, 7047k, 7047l, 7047m, 7057a, 7060, 7060a, 7066b, 7070; Vernon's Rev. Pen.Code, arts. 131a, 666—20a, 666—21.

⁶ Article 695c.

⁷ Article 2922—1.

Approved and effective May 1 and June 16, 1941.

Section 3 of the amendatory Act of 1941, p. 774, ch. 481, declared an emergency and provided that the Act should take effect from and after its passage.

Section 3 of Article XX of the Act of 1941, p. 269, ch. 184, cited to the text, appropriated \$25,000, or so much thereof as necessary, for the use of the Comptroller of Public Accounts for the enforcement and administration of the Act and provid-

ed that the unexpended balance of such appropriation should revert to the General Fund after August 31, 1941.

Appropriations from "Blind Assistance Fund" and from "Children Assistance Fund", see article 695c note.

Art. 7083b. Lien; liability for tax; taxes due and offenses under prior laws; partial invalidity; allocations as subject to appropriations

Section 1. All taxes, fines, penalties, and interest due by any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver to the State of Texas, by virtue of this Act, shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver. This lien shall be cumulative, and in addition to the liens for taxes, fines, penalties, and interest now provided by law, and shall attach as of the date such tax or taxes are due and payable.

Sec. 2. Any person, firm, corporation, or association of persons purchasing any natural resources upon which a tax is levied by this Act who fails to deduct and withhold the proper amount of taxes which are due and unpaid under any provision of this Act, shall be liable to the State for the full amount of such taxes plus any accrued penalties and interest thereon.

Sec. 3. All sales, occupation, excise, or other taxes, penalties, and interest accruing to the State of Texas by virtue of any of the repealed or amended provisions as set out in this Act before the effective date of this Act, shall be and remain valid and binding obligations to the State of Texas, and all taxes, fines, penalties, and interest accruing under the provisions of prior or existing occupation, excise, or other tax laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Texas are hereby expressly preserved and declared to be legal and valid obligations to the State of Texas. This Section is cumulative of other similar provisions of this Act.

Sec. 4. The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense. This Section is cumulative of other provisions of this Act.

Sec. 5. If any Article, section, subsection, sentence, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional.

Sec. 6. Wherever in any Article in this Act any part of the tax is allocated or appropriated to the collection agency of the State collecting such tax, such allocation is made subject to appropriation by the Legislature; and in case the Legislature should appropriate such funds or any part thereof such appropriation shall be in lieu of the percentage allocated to the Department and the Department shall have no right or authority to expend the remainder of such funds. This provision shall take precedence over any other provision of this Act in conflict herewith.

Sec. 8. All penalties, fines, forfeitures or penal offenses provided in this Act, as to the same offense, shall be cumulative of one another and

of any other fines, penalties, forfeitures or penal offenses provided by any other law of this State applicable to such offense.

Should any such fines, penalties, forfeitures, or penal offenses be in conflict so that such could not be cumulative as above provided, then that law or part of the law containing the provision for the highest penalty in dollars shall be effective and apply as to each such offense, and that law or part of the law containing the provision for the highest fine in dollars (where a fine alone is provided for) shall be effective and apply to each such offense, and in case of forfeiture that law or part of the law containing a provision for the most onerous forfeiture shall be effective and apply to each such offense, and in case of penal offenses containing a provision providing for imprisonment, that law or part of the law containing the provision for the longest maximum imprisonment shall be effective and apply to each such offense; and in each such instance, the lesser fine, penalty, forfeiture, penal offense or punishment shall be suspended. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XXI.

Approved May 1, 1941.

Effective May 1, 1941.

Section 7 of Article XXI of the amendatory Act of 1941 repealed all conflicting

laws or parts of laws to the extent of such conflict only.

Section 9 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THREE—FRANCHISE TAX

Art. 7084. Amount of tax

(a) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, or doing business in Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, (outstanding bonds, notes, and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue, and all such instruments which bear a maturity date of less than one (1) year from date of issue but which represent indebtedness which has remained outstanding for a period of one (1) year or more from date of inception, but which have been renewed or extended, or refinanced by the issuance of other evidences of the indebtedness, whether to the same or other parties and it is further provided that this term shall not include instruments which have previously been classified as surplus) as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed on the basis of One Dollar (\$1) per One Thousand Dollars (\$1,000) or fractional part thereof; provided, that such tax shall not be less than Twenty Dollars (\$20) in the case of any corporation, including those without capital stock, and provided further that the tax shall in no case be computed on a sum less than the assessed value, for State ad valorem tax purposes, of the property owned by the corporation in this State. Where a foreign corporation applying for a permit has theretofore done no business in Texas, such tax shall not be payable until the end of one (1) year from the date of such permit, at which time the tax shall be computed according to first year's business; and, at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May 1st following. In all other cases, the tax shall be computed from the data

contained in the reports required by Articles 7087 and 7089. Capital stock as applied to corporations without capital stock shall mean the net assets.

(b) Corporations other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations organized to and maintaining or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one fifth ($1/5$) of the franchise tax herein imposed against all other corporations under Section (a) herein.

(c) Provided, however, that this Article shall not apply to corporations organized as terminal companies not organized for profit, and having no income from the business done by them and provided further that nothing in this Article shall repeal any total exemption from franchise taxes now provided by law.

(d) Except as provided in preceding Clauses (b) and (c), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility whose rates or services are regulated, or subject to regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bears to its total gross receipts, instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed on the basis of One Dollar (\$1) per One Thousand Dollars (\$1,000) or fractional part thereof.

For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

The tax levied in this subdivision (d) shall in no case be computed on a sum less than the assessed value, for State ad valorem tax purposes, of the property owned by the Corporation in this State.

(e) Corporations engaged partly in the business of a public utility as defined in Clause (d) and partly in businesses embraced in Clause (a) shall pay the franchise tax in the following manner; as to those businesses which come under Clause (a) the tax shall be computed as provided in Clause (a) on that proportion of the entire taxable capital under said Clause (a) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Clause (d) the tax shall be computed as provided in Clause (d) on that proportion of the entire taxable capital under said Clause (d) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in computing the proportion of Texas taxable capital under Clauses (a) and (d).

(f) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters, shall hereafter pay only the tax provided hereunder for one purpose, and one fourth ($1/4$) of such amount for each additional purpose named in their

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charters. Provided however, this Article shall not apply to corporations organized under the Electric Cooperative Corporation Act. Provided however, that this Article does not amend, alter or change in anywise any provision of Chapter 86, page 161, Forty-fifth Legislature, Acts, 1937.¹ As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. VIII, § 1.

¹ Article 1528b.

Approved May 1, 1941.

Effective May 1, 1941.

Section 1a of Article VIII of the Act of 1941, cited to the text, read as follows: "It is further provided that upon the passage of this Act or as soon after as is feasible, the Secretary of State shall mail to all corporations required to pay the franchise tax under the provisions of this Act, supplemental forms for the purpose of computing franchise taxes as provided by this Act for periods from the effective date of this Act to May 1, 1942, and he shall also mail notice to the effect that for failure to file the necessary report and for failure to pay additional amounts which shall accrue as a result of the passage of

this Act the right of such corporations to do business will be forfeited on September 1st next; provided that the statutory penalty of twenty-five (25) per cent shall not accrue against such additional amounts for failure to pay on or before May 1, 1941. The Secretary of State shall have the authority to promulgate such rules and regulations necessary to the immediate enforcement of this Act."

Section 2 of Article VIII of the amendatory Act of 1941, cited to the text, provided that the tax levied in Article 7084 shall be allocated as provided in such act. See Article 7083a.

Lien of taxes, fines, penalties and interest, see article 7083b.

CHAPTER FOUR—INTANGIBLE TAX BOARD

Art. 7105. 7414 Tax on intangible assets

Each incorporated railroad company, ferry company, bridge company, turnpike, or toll company, oil pipe line company, and all common carrier pipe line companies of every character whatsoever, engaged in the transportation of oil, and in addition each "motor bus company," as defined in Chapter 270, Acts, Regular Session of the Fortieth Legislature, as amended by the Acts of 1929, First Called Session of the Forty-first Legislature, Chapter 78,¹ and each "common carrier motor carrier" operating under certificates of convenience and necessity issued by the Railroad Commission of Texas, doing business wholly or in part within this State, whether incorporated under the laws of this State, or of any other State, territory, or foreign country, and every other individual, company, corporation, or association doing business of the same character in this State, in addition to the ad valorem taxes on tangible properties which are or may be imposed upon them respectively, by law, shall pay an annual tax to the State, beginning with the first day of January of each year, on their intangible assets and property, and local taxes thereon to the counties in which its business is carried on; which additional tax shall be assessed and levied upon such intangible assets and property in the manner provided in Chapter 4, Title 122 of the Revised Civil Statutes of Texas, 1925.² The county or counties in which such taxes are to be paid, and the manner of apportionment of the same, shall be determined in accordance with the provisions of Chapter 4, Title 122 of the Revised Civil Statutes of Texas, 1925. The intangible taxable values of said motor bus companies and said common carrier motor carriers shall be apportioned to the counties in or through which they operate in proportion to the distance in miles of the highways traversed by said carriers in each respective county. Provided, however, that Electric Interurban Railway Corporations are exempt from the provisions of this Article. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. XIII, § 1.

¹ Article 911a; Vernon's Rev. Pen. Code, art. 1690a.

² Articles 7098—7116.

Approved May 1, 1941.

Effective May 1, 1941.

Lien of taxes, fines, penalties and interest, see article 7083b.

CHAPTER SEVEN—ASSESSMENT AND ASSESSORS

Art. 7212. 7570, 5124 Boards may equalize

The Boards of Equalization shall have power, and it is made their official duty, to supervise the assessment of their respective counties, and, if satisfied that the valuation of any property is not in accordance with the laws of the State, to increase or diminish the same and to affix the proper valuation thereto, as provided for in the preceding Article, and when any Assessor in this State shall have furnished said Court with the rendition as provided for in the preceding Article, it shall be the duty of such Court to call before it such persons as in its judgment may know the market value or true value of such property, as the case may be, by proper process, who shall testify under oath the character, quality, and quantity of such property, as well as the value thereof. Said Court, after hearing the evidence, shall fix the value of such property in accordance with the evidence so introduced and as provided for in the preceding Article, and their action in such case or cases shall be final; provided however, that if the Commissioners Court of any county with a population of not less than twenty thousand, six hundred and twenty-five (20,620), and not more than twenty thousand, six hundred and seventy-five (20,675) who contracts with or employs any individual, firm, or corporation to compile taxation data, the compensation of such individual, firm, or corporation may be paid on a pro rata basis from each county fund receiving any taxes derived from such valuation. As amended Acts 1941, 47th Leg., p. 726, ch. 453, § 1.

Filed without the Governor's signature,
June 7, 1941.

Effective June 10, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art.

7246a—1. Officers' salary fund laws not affected; fees paid into fund [New].

Art.

7255b. Discounts on ad valorem taxes paid in advance [New].

Art. 7246a. Officers authorized to administer oath; counties of 500,000 or more, administering oaths or affidavits in; fees; receipts or certificates, fees for; "tract" defined

Sec. 1. The Assessor and Collector of Taxes, Sheriff or Sheriff and Assessor and Collector of Taxes, are hereby authorized and empowered to administer all oaths necessary for the discharge of the duties of their respective offices and to administer all oaths required for the transaction of the business of their respective offices, provided that in counties containing a population of five hundred thousand (500,000) or more inhabitants according to the last preceding or any future Federal Census, such Assessors and Collectors of Taxes and their Deputies are expressly authorized to administer oaths or affidavits as to the facts concerning the use of any real property which may be claimed to be exempt in whole or in part from State taxation, as constituting a homestead under the Constitution of the State of Texas, and any oath or affidavit covering any bill of sale and application for transfer of a motor vehicle or trailer, or application for a certificate of title concerning any motor vehicle, or affidavit and application to register a rebuilt motor vehicle, or notice of

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the installation of a new or different motor in any motor vehicle, or affidavit concerning the weight of any motor vehicle, or affidavit with reference to the application for the registration of any light delivery truck, motor bus, semitrailer, or trailer, or application for the replacement of number plates, or affidavit as to the weight and application for the registration of a commercial farm truck, or affidavit and application for the reregistration of a motor vehicle that has not been used for the current registration year, when any such rendition, inventory, application, or instrument above mentioned is required to be filed in the office of such Assessor and Collector of Taxes, and any other instrument that may be filed in said office, or that may relate to the business or duties of said office whenever the same is or may be required by law to be sworn to, provided that such Assessor and Collector of Taxes shall charge and collect as a fee of office, in addition to any other fees that he may now be authorized by law to charge, in connection with such instruments, the sum of Twenty-five (25) Cents for each such oath or affidavit as he, or his Deputies, may administer, which shall be and constitute a fee of office, and for which he shall account as he is now or may hereafter be required by law to account for any other fee of office, such Assessors and Collectors of Taxes, and their Deputies, being hereby given the same right to administer all such oaths or affidavits as are notaries public under the laws of the State of Texas; provided no fee shall be charged for any oath or affidavit connected with the rendition of any property for taxation.

Sec. 2. Whenever any Assessor and Collector of Taxes in any county, containing a population of five hundred thousand (500,000) or more according to the last preceding or any future Federal Census, shall issue a receipt or certificate conformably to the terms of Article 7324 of the Revised Civil Statutes of the State of Texas, 1925, as amended by Chapter 117 of the Acts of the Regular Session of the Forty-second Legislature, which shall show that all taxes, interest, penalties, and costs have been paid on any tract of land, he shall charge and receive for each such certificate issued the sum of Fifty (50) Cents if the tract described therein be a part of an addition or subdivision covered by a plat recorded in the office of the County Clerk of his county, and One Dollar (\$1) for each such certificate so issued if the tract covered or affected by such receipt or certificate be not a part of an addition or subdivision covered by such recorded plat, all of which fees so received shall be treated and considered as fees of office and accounted for by such Assessor and Collector of Taxes in such a manner as may now or hereafter be required by law and paid into the proper fund of his county, provided that the word 'tract' as used herein shall include any parcel or number of parcels of land owned by any one owner in any one addition, subdivision, or survey, whether originally conveyed to such owner as one lot or more than one lot, or as one tract of land or more than one tract of land if the land covered by any such receipt or certificate as actually located on the ground constitutes one single tract of land capable of enclosure under a single fence running along all of its outer boundaries without crossing any street, alley, road, public thoroughfare, or the land of another owner. As amended Acts 1941, 47th Leg., p. 532, ch. 328, § 1.

Filed without the governor's signature,
May 24, 1941.

Effective May 26, 1941.

Section 2 of amendatory Act of 1941
declared an emergency and provided that
the Act should take effect from and after
its passage.

Art. 7246a—1. Officers' salary fund laws not affected; fees paid into fund

Nothing in this Act shall in any manner repeal or alter laws of this State relative to the officers' salary fund and any such fees collected under this Act shall be paid into such officers' salary fund. Acts 1941, 47th Leg., p. 532, ch. 328, § 1a.

Filed without the Governor's signature,
May 24, 1941.

Effective May 26, 1941.

Art. 7255b. Discounts on ad valorem taxes paid in advance

All taxpayers shall be allowed discounts for the payment of taxes due to the State and all governmental and political subdivisions and taxing districts of the State, said discounts to be allowed under the following conditions: (a) three (3%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; (b) two (2%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid sixty (60) days before the date when they would otherwise become delinquent; (c) one (1%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid thirty (30) days before the date when they would otherwise become delinquent. Provided, however, that the provisions of this section shall not apply to water improvement districts, irrigation districts, levee districts, water control districts, and other governmental subdivisions, cities, towns and independent school districts unless and until the governing body of such water improvement districts, irrigation districts, levee districts, water control districts, and other governmental subdivisions, cities, towns, or independent school districts by ordinance, resolution or order, shall adopt the provisions hereof; and in the event any such water improvement district, irrigation district, levee district, water control district, and other governmental subdivisions, city, town or independent school district elects to allow such discounts, then the governing body of each water improvement district, irrigation district, levee district, water control district, and other governmental subdivisions, city, town or independent school district, shall have power, by the ordinance, resolution or order levying the annual taxes, to designate the months in which such discounts of three (3%) per cent, two (2%) per cent, and one (1%) per cent respectively shall be allowed, but in no event shall the same apply to split payment of taxes. Acts 1939, 46th Leg., p. 654, § 1.

Section 2 of the act cited to the text repeals art. 7255a; section 3 amends Art. 7336; section 4 repeals all conflicting laws and parts of laws.

Section 5 read as follows:

"It is further provided that in case any section, clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered."

Section 6 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for tax discounts to all taxpayers for taxes due the State and all governmental and political subdivisions and taxing districts; prescribing the mode, manner, and amount of such discounts; and providing that the same shall not apply to cities, towns, school districts and other governmental subdivisions unless and until the governing bodies thereof shall, by proper ordinance or order, adopt the provisions hereof; giving such governmental subdivisions authority to designate the months in which such discounts shall

be allowed, and providing that the same shall not apply to the split payment of taxes in such governmental subdivisions; repealing Section 1 of Chapter 10 of the Acts of the Fourth Called Session of the Forty-third Legislature; amending Section 2 of Chapter 10 of the Acts of the Fourth Called Session of the Forty-third Legisla-

ture by fixing the time when poll taxes and ad valorem taxes shall become delinquent; prescribing the duties of the Comptroller of Public Accounts; repealing all laws and parts of laws in conflict with this Act; declaring the Legislative intent; and declaring an emergency. Acts 1939, 46th Leg., p. 654, § 1.

Art. 7276. 7634, 5180, 4752 Advertisement of real property for sale

In making sales of real property for taxes, the Collector shall advertise the same for sale in some newspaper published in the county where the land is to be sold, for three successive weeks, if there be one; and the publisher of such newspaper shall receive as compensation the legal rate of Two (2) Cents per word for the first insertion of such publication and One Cent per word for each subsequent insertion or such newspaper shall be entitled to charge for such publication at a rate equal to but not in excess of the lowest published word or line rate of that newspaper for classified advertising, and such fee shall be taxed as other costs of sale against such land, and the Comptroller shall allow the Collector such fee to be paid by the Collector to the newspaper publisher in each case where the land is bid in and sold to the State. If there be no newspaper published in the county, or, there being a newspaper published in the county and the publisher thereof refuses to publish the advertisement at the price herein fixed, then the advertisement shall be made by posting the same for thirty (30) days previous to the day of sale, at the courthouse door and three other public places in the county where the land or lots are situated, giving in said advertisement such description as is given to the same on the tax rolls in his hands, stating the name of the owner if known, and if unknown say "unknown," together with the time, place, and terms of sale; said sale to be for cash, to the highest bidder, at public outcry at the courthouse door, and between legal hours, on the first Tuesday of the month. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 4.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 7 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art 3, § 39.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 6 of such act, set out under article 28a.

Legal publications and rates therefor, see article 29.

CHAPTER TEN—DELINQUENT TAXES

Art.

7336i. Release of interest and penalties on taxes delinquent July 1, 1940, if paid by November 1, 1941 [New].

Art. 7336i. Release of interest and penalties on taxes delinquent July 1, 1940, if paid by November 1, 1941

Sec. 1. That all interest and penalties that have accrued on all ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions

of the State (and, subject to the provisions hereinbefore and hereinafter contained, such interest and penalties on delinquent ad valorem and poll taxes due cities, towns, and villages, and special school districts, and independent school districts,) shall be and the same are hereby released, provided said ad valorem and poll taxes are paid on or before November 1, 1941. It is provided that the provisions hereof shall not apply to cities, towns, and villages, and special school districts, and independent school districts, unless and until the governing body of any such city, town, or village, or special school district, or independent school district finds that unusual or excessive default in the payment of ad valorem and poll taxes has occurred, and that an extension of time for the payment of such delinquent ad valorem and poll taxes will promote and accelerate the collection thereof, whereupon such governing body shall adopt a resolution or ordinance evidencing such finding, and upon the recording of such findings of fact the provisions of this Act shall be in full force and effect as to any such city, town, or village, or special school district, or independent school district. It is hereby expressly and specifically provided that penalties and interest herein released are released only on delinquent ad valorem and poll taxes and on no other taxes.

Sec. 2. That all costs of every kind and character that have accrued or attached or that may hereafter accrue or attach to or by reason of delinquent poll or ad valorem taxes on which said poll or ad valorem tax the interest and penalties have been released by any of the provisions of this Act shall be and the same are hereby released, and no such costs shall hereafter be charged, collected, or accounted for, provided, however, that any costs that are now due and payable to any officer or official shall remain a valid obligation, notwithstanding the provision hereof.

Sec. 3. Anyone desiring to pay at one time all the delinquent taxes for only one year wherein such taxes are delinquent for more than one year shall have the right to pay the same but without remission of penalties and interest; provided, however, that any persons availing themselves of the benefits of this Act shall be required to pay all delinquent ad valorem taxes due the State and county on any specific piece of property on which such taxes are delinquent before the penalties and interest may be released as herein provided; conditioned that a six per cent (6%) penalty on the total amount delinquent be paid on such property.

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly suspended during the term of this Act so far as they may affect this Act.

Sec. 5. It is provided further that in case any section, clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Sec. 6. This bill is enacted into a law because of the dire need of school districts and other subdivisions for funds from delinquent taxes to continue to function, and for the further purpose of giving the distressed taxpayers an opportunity to pay their taxes without the burden of the penalties and interest that have accrued, but it shall not be understood from the enactment of this law that it is the policy of the Legislature to continue to remit penalty and interest. The Forty-seventh Legislature here declared that a continuation of the policy of remitting penalty and interest on delinquent taxes would be detrimental to the best interest of this State and would, if continued, lead to still greater delin-

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quencies in tax payments than has ever been in the history of this State. Acts 1941, 47th Leg., p. 565, ch. 358.

Approved May 22, 1941.

Effective May 26, 1941, pursuant to House Concurrent Resolution # 152, Acts 1941, 47th Leg., p. 567, ch. 359, adopted by the House on May 15, 1941, and by the Senate on May 21, 1941, which resolved that such resolution and Acts 1941, 47th Leg., p. 565, ch. 358, should be considered emergency measures and should take effect from and after the passage thereof.

Title of Act:

An Act for the purpose of releasing the interest and penalties on all delinquent ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State, provided same are paid on or before November 1, 1941; and providing further that this Act releasing penalties and interest shall not apply to cities, towns, and villages, and special school districts, and independent school districts unless and until the governing body thereof finds that unusual or excessive default in the payment of ad valorem and poll taxes has occurred and that an extension of time for the payment of said ad valorem and poll taxes will accelerate the payment thereof, and such governing body

has adopted a resolution or ordinance evidencing such finding, and upon the recording of such findings of fact shall have the authority to put in force and effect the provisions hereof as to any such city, town, or village, or special school district, or independent school district; providing for the release of costs under certain circumstances; providing that anyone desiring to pay at one time delinquent taxes for one year only wherein such taxes are delinquent for more than one year shall have the right to do so without remission of penalties and interest; providing that any persons availing themselves of the provisions of this Act, conditioned that a six per cent (6%) penalty on the total amount delinquent be paid on such property shall be required to pay all delinquent ad valorem taxes due the State and county on any specific piece of property on which such taxes are delinquent before receiving the benefits of this Act; providing that all laws in conflict with this Act are expressly suspended during the term of this Act; providing that if any section, clause, sentence, paragraph, or part of the Act be judged to be invalid by any court of final or competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of the Act; stating the policy of the Legislature; and declaring an emergency. Acts 1941, 47th Leg., p. 565, ch. 358.

Art. 7342. 7698 Unknown or nonresident

Whenever the owner or owners of any lands or lots that have been or may be returned delinquent or reported sold to the State for the taxes due thereon, for any year or number of years, are nonresidents of the State, or the name of the owner or owners of said lands or lots be unknown, then, upon affidavit of the attorney for the State setting out that the owner or owners are nonresidents, or that the owner or owners are unknown to the attorney for the State, and after inquiry cannot be ascertained, said parties shall be cited and made parties defendant by notice in the name of the State and county, directed to "all persons owning or having or claiming any interest in the following described land delinquent to the State of Texas and county of _____, for taxes, to wit: (here set out description of the land as contained on the assessment roll and such further description obtainable in the petition)," and further stating "which said land is delinquent for taxes for the following amounts, \$— for State taxes, and \$— for county taxes, and you are hereby notified that suit has been brought by the State for collection of said taxes, and you are commanded to appear and defend such suit at the _____ term of the District Court of _____ County, and State of Texas, and show cause why judgment shall not be rendered condemning said land (or lot) and ordering sale and foreclosure thereof for said taxes and costs of suit," which notice shall be signed by the clerk and shall be published in some newspaper published in said county one time a week for three consecutive weeks. If there is no newspaper published in the county, then notice may be given by publication in a paper in an adjoining county. A maximum fee of Two (2) Cents per

word for the first insertion of such publication and One Cent per word for each subsequent insertion, or not more than the lowest published word or line rate of such newspaper shall be taxed as costs in such cases and shall be paid to the newspaper publishing said citation. If the State bids the land in at such sale, the Comptroller shall allow the Collector the amount of such publisher's fee to be paid by the Collector to the publisher. If the publication of such citation cannot be had for such fee, then publication of the citation herein provided may be made by posting a copy at three different places in the county, one of which shall be at the courthouse door. It shall be lawful in all cases to set forth in the petition the names of all parties interested as far as ascertained, and make them parties, and also to join and make defendants all persons having or claiming any legal or equitable interest in the land described in the petition. Such suit, after such publication, shall be proceeded with as in other cases; and whether any party or parties make defense or not on the trial of said case, the State and county shall be entitled to prove the amount of taxes due, and shall have a decree for the sale of said land or lot as in those cases where defendant owners have been personally served and defend suit. A sale of said land or lot shall be had and be as binding as where defendants are personally served with process. In all suits for taxes due, the defendant shall be entitled to credits he can show due him for any year or number of years for which he may be able to produce receipts or other positive proof showing the payment of such taxes. As amended Acts 1941, 47th Leg., p. 480, ch. 303, § 5.

Approved May 20, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 7 of amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Partial invalidity of the amendatory Act of 1941, cited to the text, effect of, see section 6 of such act, set out under article 28a.

Legal publications and rates therefor, see article 29.

Art. 7345b. Suits for delinquent taxes by taxing units—"tax units" defined

Sec. 2. In any suit hereafter brought by or in behalf of any taxing unit as above defined, for delinquent ad valorem taxes levied against property by any such taxing unit, the plaintiff may implead as parties defendant any or all other taxing units having delinquent ad valorem tax claims against such property, or any part thereof, and it shall be the duty of each defendant taxing unit, upon being served with citation as provided by law to appear in said cause and file its claim for delinquent ad valorem taxes against such property, or any part thereof. It shall be sufficient service upon the State of Texas in any county in such suit to serve citation upon the County Tax Collector charged with the duty of collecting such delinquent taxes due the State and county against such property and it shall be sufficient service upon any other taxing unit to serve citation upon the officer charged with the duty of collecting the taxes of such taxing unit or upon the Mayor, President, or Chairman or the governing body of such taxing unit, or upon the Secretary of such taxing unit. Any taxing unit having any claim for delinquent ad valorem taxes against such property may waive the issuance and service of citation upon it.

It shall be mandatory upon any such taxing unit so filing such suit or suits, in all cases where all other taxing units are not impleaded to notify all such taxing units not so impleaded of the filing of such suit or suits, such notice to be given by depositing in the United States

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mail a registered letter addressed to such taxing unit or units giving the name or names of the plaintiff and defendants, the Court where filed, and a short description of the property involved in said suit so that such taxing units not impleaded may have the opportunity to intervene as herein provided. As amended Acts 1941, 47th Leg., p. 858, ch. 534, § 1.

Approved and effective June 18, 1941. the Act should take effect from and after
Section 2 of the amendatory Act of 1941 its passage.
declared an emergency and provided that

Sec. 5. Upon the trial of said cause the Court shall hear evidence upon the reasonable fair value of the property, and shall incorporate in its judgment a finding of the reasonable fair value thereof, in bulk or in parcels, either or both, as the Court may deem proper, which reasonable fair value so found by the Court is hereafter sometimes styled "adjudged value," which "adjudged value" shall be the value as of the date of the trial and shall not necessarily be the value at the time the assessment of the taxes was made; provided, that the burden of proof shall be on the owner or owners of such property in establishing the "fair value" or adjudged value as provided in this section. As amended Acts 1941, 47th Leg., p. 858, ch. 534, § 1.

Effective date. See note under this article, section 2.

Sec. 10. The purchaser of property sold for taxes in such foreclosure suit shall take title free and clear of all liens and claims for ad valorem taxes against such property delinquent at the time of judgment in said suit to any taxing unit which was a party to said suit, or which had been served with citation in said suit as required by this Act. Provided, the term "all liens and claims for ad valorem taxes" shall never be construed to include assessments for maintenance and operation purposes on a pro rata per acre basis against irrigable lands authorized by law to be made by water improvement districts, or water control and improvement districts, and no judgment foreclosing such liens and claims for ad valorem taxes shall ever prejudice the collection of said assessments or the liens securing same. As amended Acts 1941, 47th Leg., p. 858, ch. 534, § 1.

Effective date. See note under this article, section 2.

TITLE 124—TRESPASS TO TRY TITLE**1. THE PLEADINGS AND PRACTICE**

Arts. 7365-7374. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 795, 783, 786, 787, 784, 785, 788-790, Vernon's Texas Rules of Civil Procedure.

Arts. 7376-7388. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 791-794, 796-804, Vernon's Texas Rules of Civil Procedure.

Art. 7389. 7756, 5273 Damages

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 805, Vernon's Texas Rules of Civil Procedure.

Art. 7390. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 806, Vernon's Texas Rules of Civil Procedure.

2. CLAIM FOR IMPROVEMENTS

Art. 7400. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rule 807, Vernon's Texas Rules of Civil Procedure.

TITLE 125—TRIAL OF RIGHT OF PROPERTY

Arts. 7402-7408. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 717-723, Vernon's Texas Rules of Civil Procedure.

Arts. 7410-7416. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 725-730, Vernon's Texas Rules of Civil Procedure.

Arts. 7419-7425. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

See Rules 731-736, Vernon's Texas Rules of Civil Procedure.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

1. PUBLIC RIGHTS

Art. 7466f. Pecos River compact

For text of Acts 1941, 47th Leg., p. 1395, ch. 632, directing the Attorney General to make such investigations and take such legal action as he deems proper to protect

the State's interest in the Pecos River, see note to article 7466f in Vernon's Annotated Texas Civil Statutes.

Art. 7466f—1. Repealed. Acts 1941, 47th Leg., p. 637, ch. 385. Eff. May 28, 1941

Article, derived from Acts 1939, 46th Leg., Spec.L., p. 524, § 1, related to the

Alamogordo Reservoir agreement with New Mexico.

2. BOARD OF WATER ENGINEERS

Art. 7500a. Permit

Anyone may construct on his own property a dam and reservoir to impound or contain not to exceed fifty (50) acre-feet of water for domestic and livestock purposes without the necessity of securing a permit therefor. As amended Acts 1941, 47th Leg., p. 53, ch. 37, § 1.

Filed without Governor's signature, March 14, 1941.
 Effective March 17, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS

Art.

7622b. Annexation of territory not embraced in district [New].

Art.

7807m. Military camps, supplying water to; acquiring facilities; bonds; contracts' [New].

Art. 7622b. Annexation of territory not embraced in district

Sec. 1. Defined areas of territory not embraced within a water improvement district may be added to the area of any such district in the manner hereinafter provided. Petitions for annexation of such territory shall describe the territory proposed to be annexed by metes and bounds, and shall be signed by fifty (50) or a majority of the landowners in such territory. Such petition shall be presented to the Board of Directors of the water improvement district to which it is proposed to annex such territory, and thereupon it shall be the duty of said Board to pass an order fixing a time and place at which such petition shall be heard, which date shall be not less than thirty (30) days from date of such order. The Secretary of said Board shall issue notice of such time and place of hearing and which notice shall describe the territory proposed to be annexed, and shall execute said notice by posting copies thereof in three (3) public places in the district, and in two (2) public places within the territory proposed to be annexed; said notices to

be posted for at least fifteen (15) days prior to date of said hearing. Publication of a copy of such notice shall be made in a newspaper of general circulation in the county, one time, and at least fifteen (15) days prior to such hearing.

Sec. 2. At the time and place stated in the notice, the Board of Directors shall sit to hear such petition in the manner set out and provided by Article 7626, Revised Civil Statutes of Texas, 1925. If upon the hearing of such petition the Board of Directors shall find and determine that the proposed addition is to the advantage of the district and to the lands proposed to be added, then the Board of Directors by resolution duly entered upon its Minutes may receive such proposed territory as an addition to and to become a part of the district. Such resolution need not include all of the land described in the petition if upon the hearing a modification or change is found necessary or desirable. Provided, however, annexation of the territory shall not become final until ratified at separate elections called for that purpose as hereinafter provided.

Sec. 3. The Board of Directors shall order a separate election to be held within the boundaries of the district, and a separate election to be held within the territory to be added thereto, to determine whether such territory shall be added to such district. In the event the district has outstanding debts or taxes then at the same time and at the same election the proposition for assumption of its proportion of such debts or taxes by such territory if added shall also be submitted.

Each of said elections shall be held on the same day, and within thirty (30) days after entry of resolution receiving such proposed territory. Notice of said election shall be given by the Board of Directors, and shall be executed by posting copies thereof at three (3) public places in the district, and at two (2) public places within the territory proposed to be added, for at least twenty (20) days prior to the date of said elections. The Board of Directors shall appoint two judges, one of whom shall be the presiding judge, and two clerks, for each of the polling places in said district, to conduct the election within said district and make returns thereof, and shall designate one or more polling places within the territory proposed to be added, and shall appoint two judges, one of whom shall be the presiding judge, and two clerks, for each of said designated polling places, to conduct the election within such territory and make returns thereof. All expenses of each of said elections shall be paid by the district. The manner of holding each of said elections and the qualifications of the voters therein shall be governed by the provisions of law applicable to the election for the creation of water improvement districts, except as otherwise provided for herein.

The ballot for each of said elections shall have printed thereon "For addition to water improvement district," and "Against addition to water improvement district." If the proposition for assumption of its proportion of the outstanding debts or taxes of the district by such territory, if added, is submitted, then the ballot for each election shall have printed thereon "For addition to water improvement district and assumption of proportionate part of outstanding debts and taxes," and "Against addition to water improvement district and assumption of proportionate part of outstanding debts and taxes."

Sec. 4. In water improvement districts organized and operating under the provisions of Section 52 of Article 3 of the Constitution, two-thirds majority vote of the qualified voters voting at each of said elections shall be required for ratification of the annexation of the proposed territory.

In water improvement districts organized under the provisions of Section 59 of Article 16 of the Constitution, or in such districts organized under the provisions of Section 52 of Article 3 of the Constitution that have since accepted the provisions of Section 59 of Article 16 of the Constitution in the manner provided by law, a majority vote of the qualified voters voting at each of said elections shall be required for ratification of the annexation of the proposed territory.

Upon a favorable vote in each separate election as above provided, such territory shall be and become an integral part of such district as of the date of such elections, and be from such date subject to all laws governing such district, and shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by said district to which it shall have been added.

Sec. 5. Such addition to such district shall not in any manner affect the officers, employees, and affairs of such district, but the voters of such added territory shall have a right to participate in all matters of the district considered or voted upon thereafter.

Sec. 6. The provisions of this Act shall be cumulative of and in addition to all other laws that may provide for the annexation or addition of territory to established water improvement districts. Acts 1941, 47th Leg., p. 661, ch. 403.

Approved and effective May 31, 1941.

Section 7 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the annexation of territory not embraced in a water improvement district; prescribing the manner of such annexation; providing for filing of petition for annexation, notice and hearing thereon; providing that annexation shall not become final until ratified at separate elections held for that purpose; prescribing the manner of holding said elections, and the vote required for ratification; providing that upon a favorable vote the added territory shall be and be-

come a part of the district as of the date of elections and subject to all laws governing such district, and shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by said district to which it shall have been added; providing that such addition shall not affect the officers, employees and affairs of such district, and that voters of such added territory shall have right to participate in all matters of the district considered or voted upon thereafter; providing that the provisions of the Act shall be cumulative of and in addition to all other laws providing for the addition of territory to water improvement districts; and declaring an emergency. Acts 1941, 47th Leg., p. 661, ch. 403.

Art. 7641—b. Division of districts; election of directors; qualification of directors; change in boundaries

At any time after this Act shall have become effective, the Board of Directors of such District may make an order dividing said District into divisions as nearly equal in size as practicable, being five (5) in number, which shall be numbered consecutively, and thereafter one Director shall be elected for each division by the qualified electors of the whole irrigation district.

All orders heretofore made by the Board of Directors dividing such District into five (5) divisions are hereby validated and confirmed, and all elections heretofore held for Directors from each of said divisions are also hereby validated and confirmed.

In addition to the qualification prescribed in Article 7641, such Director shall be the owner of land subject to taxation within such division.

The Board may, from time to time, change the boundaries of such division, in accordance with the requirements hereof; provided no such change shall be made within sixty (60) days of any election.

For the purpose of elections in such district, the Board of Directors shall establish a convenient number of election precincts, and define

the boundaries thereof, which said precincts may be changed from time to time, at the discretion of the Board. As amended Acts 1941, 47th Leg., p. 862, ch. 536, § 1.

Approved and effective June 18, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 7807m. Military camps, supplying water to; acquiring facilities; bonds; contracts—Application of act; district defined

Sec. 1. This Act shall be applicable to water improvement districts deriving their powers from Article XVI, Section 59, of the Constitution of Texas, in which there may be located, in whole or in part, any United States military camp or base. The word "district" as hereinafter used means any district to which this Act is applicable.

Issuance of bonds

Sec. 2. All such districts are hereby authorized to issue negotiable revenue bonds in an amount not to exceed One Hundred Thousand Dollars (\$100,000) par value, without the necessity of an election, for the purpose of providing funds for constructing or otherwise acquiring filtration and pumping equipment, pipe lines, and all other facilities for supplying water to military camps or bases. It is further provided, however, that in the event such districts may desire to issue any bonds for the purposes enumerated herein, in an amount in excess of One Hundred Thousand Dollars (\$100,000) par value, they shall be authorized to do so only after submitting such proposition to an election under the provisions of the General Law governing same, and having such proposition approved at such election.

Interest; maturity

Sec. 3. Such bonds shall bear not more than four (4) per cent interest, and shall mature in not to exceed five (5) years from the date of issuance.

Security for bonds

Sec. 4. Said revenue bonds may be secured by all or any part of the net revenues to be received from a contract entered into or to be entered into between the districts and the United States Government for sale of water to the United States Government for use at military camps or bases, and all renewals, extensions, and substitutions thereof. Said bonds may be secured additionally by a deed of trust lien upon the equipment and other facilities and properties to be constructed or otherwise acquired with funds derived from the sale of the bonds.

Approval; registration

Sec. 5. After such bonds shall have been authorized and executed, and before issuance thereof, said bonds, the resolution of the board of directors of the district directing their issuance, and other certificates and records pertaining to their issuance, shall be submitted to the Attorney General of Texas for his examination. If such bonds have been issued in accordance with this Act and the Constitution, the Attorney General shall issue his opinion approving them, and they shall be registered in the office of the Comptroller of Public Accounts. Such bonds, having been approved by the Attorney General and registered in the Comptroller's Office, shall be held in every action, suit, or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such

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bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy of said certificate, shall be admitted and received in evidence of its validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Effect of act

Sec. 6. The authority herein conferred shall be cumulative of that conferred by other laws. In event of conflict between this law and other laws, the provisions of this law shall prevail.

Contracts

Sec. 7. Any contract for the construction or otherwise acquiring of filtration and pumping equipment, pipe lines, or other facilities which supply water to military camps or bases made under authority of this Act, may be made only after advertising for bids for such time as the board of directors of any such district may determine; provided that in any case such advertisement for bids shall be published in some newspaper of general circulation in such district for at least one time not less than ten (10) days before awarding and making any such contract.

Bonds not to be paid from taxes

Sec. 8. The holder of any bonds issued under authority of this Act shall never have the right to have same paid, in whole or in part, out of funds derived from taxation on any of the properties within any such district. Acts 1941, 47th Leg., p. 827, ch. 510.

Approved and effective May 28, 1941.

Section 9 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act applicable to water improvement districts deriving their powers from Article XVI, Section 59, Constitution of Texas, in which there may be located a United States military camp or base; defining the word "district"; authorizing such districts to issue negotiable revenue bonds in an amount not to exceed One Hundred Thousand Dollars (\$100,000) par value without the necessity of an election to provide funds for constructing or otherwise acquiring filtration and pumping equipment, pipe lines, and all other facilities for supplying water to military camps or bases; and authorizing such districts so desiring to issue any bonds for the purposes enumerated in this Act in an amount in excess of One Hundred Thousand Dollars (\$100,000) only after submitting such proposition to an election under the provisions of the General Law governing same; providing that such bonds shall bear not more than four (4)

per cent interest and providing that the date of maturity shall not exceed five (5) years from the date of their issuance; prescribing the method of securing such revenue bonds; requiring approval of such revenue bonds by the Attorney General, and prescribing the effect thereof; providing that the authority herein conferred shall be cumulative of that conferred by other laws and that in the event of conflict between this and other laws, the provisions of this law shall prevail; providing that any contract made under authority of this Act shall be made only after advertising for bids for such time as the board of directors of such district may determine; and providing that in any event advertisement for bids shall be made in a newspaper of general circulation in such district one time not less than ten (10) days before awarding or making such contract; providing that the holder of any bonds issued under authority of this Act shall never have the right to have same paid, in whole or in part, out of funds derived from taxation on any of the properties within any such district; and declaring an emergency. Acts 1941, 47th Leg., p. 827, ch. 510.

CHAPTER 3A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.
7880—3b. Water Control and Improvement Districts in counties over 500,000 may operate fire department and acquire equipment; arson, rewards; contracts [New].

Art.
7880—3b1. Districts in counties over 500,000; contracts; advertisement; partial invalidity of act [New].

7880—76c. Excluding unirrigated lands from districts containing more than 100,000 acres [New].

Art. 7880—3a. Additional powers for disposal of waste and providing facilities and service

That water control and improvement districts now existing, or hereafter to be created, may include in their purposes and plans all works, facilities, plants, equipment, and appliances in any and all manner incident to, helpful or necessary to the collection, transportation, processing, disposal, and control of all domestic, industrial, or communal wastes, whether of fluids, solids, or composites, and to gather, conduct, divert, and control local storm waters, or other local harmful excesses of water and to purchase, own, and operate fire engines and all necessary fire-fighting equipment and appliances. The foregoing ends may be accomplished by any and all mechanical or chemical means or processes incident, necessary, or helpful to such purposes, to the end that the public health and welfare may be conserved and promoted and the purity and sanitary condition of the State's waters protected, effected, or restored. And (1) to accomplish these purposes such districts shall have all, and fully, the same powers and rights of procedure, financing, construction, maintenance, rehabilitation, operation, and administration as now are or hereafter may be conferred by Section 59 of Article XVI of the Constitution of Texas and by said Chapter 25.¹ And especially (2) such districts shall have full power to adopt, promulgate, and enforce all such reasonable rules, regulations, and specific charges, fees, or rentals to be in addition to tax imposts for providing either facilities or service peculiar to a person, property, or area and to be equitably fixed, in a manner free from arbitrary discrimination as between persons, properties, or areas served. All such adopted orders and regulations shall be promulgated by publication of a copy thereof once a week for two (2) consecutive weeks in one or more newspapers to give general circulation in the district, and shall be recorded in full in the minutes of the district. Thereupon the full police power of the district, as provided for in Section 3 of Chapter 280, Acts of the Regular Session of the Forty-first Legislature, as amended by Chapter 340, Acts of the Regular Session of the Forty-fourth Legislature,² may be exercised to make effective the intent of such orders, and such district may discontinue a facility or service in order to prevent an abuse or to enforce payment of a due and unpaid prescribed charge due to the district. And (3) districts proposing to exercise the powers and to perform the functions in this Section provided may embrace all of or any part of areas already embraced within the boundaries of any political subdivision, a governmental agency or body politic of the State of Texas; provided that such district shall not usurp functions or duplicate a service being already adequately exercised or rendered by such other embraced gov-

ernmental agency save and except under a valid contract with such other embraced governmental agency. Further (4) the taxes to be imposed by a district exercising the powers in this Section provided, either solely or in connection with other powers granted by said Chapter 25, shall have the power to impose taxes in addition to the taxes which may have been or may be imposed by such other embraced governmental agency. And (5) the provisions of Section 115 of said Chapter 25³ shall not apply to an election concerning a proposal to create a district to exercise the powers in this Section provided for, and additional defined areas may be added to such districts in the same manner as is provided by this Section to control the creation of districts to exercise the powers and functions in this Section provided for and as hereinafter specified. And (6) the duty to hear and determine petitions for the creation of a district proposed to exercise the powers and functions in this Section provided shall, exclusively, be vested in the State Board of Water Engineers of the State of Texas, who shall hear and determine the same under the applicable provisions of Section 5 of Chapter 280,⁴ Acts of the Regular Session of the Forty-first Legislature. Upon request therefor it shall be the duty of the Reclamation Engineer and the Sanitary Engineer of the Health Department of the State of Texas to render advisory aid concerning all such petitions and the plans of such districts. It is provided, however, that nothing herein contained shall be construed to impair the provisions of Section 19 of said Chapter 25⁵ relating to districts to be located wholly in one county when such districts are not proposed to have or include the powers in this Section provided for. And (7) any districts now or hereafter existing under the provisions of said Chapter 25, which district did not at the time of its creation have conferred upon it the powers in this Section provided for, may receive and assume the additional powers by this Section provided for in the same manner and by the same procedures as are provided for in this Section, save that it shall not be necessary to hold an election to confirm the order to establish the district's increased powers; provided, however, that no money obligations of the district may be issued to finance such increased functions, facilities, and powers until after the electors of the district shall have authorized the same by a Constitutional and Statutory majority vote in the respective manners provided by said Chapter 25 to control in appropriate case the issuance of preliminary bonds, or, in appropriate case, construction bonds as the proposal may require. As amended Acts 1941, 47th Leg., p. 515, ch. 312, § 1.

1 Article 7880—1 et seq.

2 Article 7880—7.

3 Article 7880—115.

4 Article 7880—21.

5 Article 7880—19.

Approved May 20, 1941.

Effective May 20, 1941.

Section 2 of the amendatory Act of 1941, read as follows: "Nothing in this Act shall amend, alter, modify, or repeal Senate Bill No. 299, [article 7930—3] or

Senate Bill No. 300, [articles 7880—3b, 7880—3b1] Acts, Regular Session, Forty-seventh Legislature."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 7880—3b. Water Control and Improvement Districts in counties over 500,000 may operate fire department and acquire equipment; arson, rewards; contracts

That all Water Control and Improvement Districts now existing, or hereafter to be created, and located wholly within counties having a

population in excess of five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, shall be authorized to acquire, purchase, own, improve, repair, maintain and operate fire fighting facilities and equipment for the purpose of protecting the properties belonging to such Districts, and other properties situated within such Districts, and to maintain and operate a fire department, and to employ a fire marshal and such other employees as shall be necessary therefor. Such Districts shall further be authorized to pay rewards for information leading to the arrest and conviction of a person or persons on a charge of arson in connection with the burning or attempted burning of property situated within the District. The District's liability for such reward shall not exceed the sum of One Hundred (\$100.00) Dollars for each offense, regardless of the number of persons convicted therefor.

The cost of acquiring, purchasing, improving and repairing fire fighting equipment and facilities may be paid out of the proceeds of the sale of bonds or other obligations issued by such Districts, or out of funds derived from taxes levied for maintenance purposes, or from the operation of the District's improvements, in the discretion of the Board of Directors; the cost of maintaining and operating such equipment and facilities may be paid from maintenance taxes or operating revenues, but shall not be paid out of borrowed money, whether by bonds or otherwise.

Such Water Control and Improvement Districts are hereby authorized to contract with nearby municipal corporations, or other political subdivisions, for fire protection by the use of facilities and equipment of such municipal corporations or political subdivisions, and to pay the consideration therefor from any available funds other than borrowed money. Such contracts shall extend for a period not to exceed ten (10) years, as may be agreed upon by the governing bodies of the contracting parties. Acts 1925, 39th Leg., p. 86, ch. 25, § 3b, added Acts 1941, 47th Leg., p. 181, ch. 130, § 1.

Filed without the Governor's signature April 16, 1941.

Effective April 28, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

For sections 2 and 3 of Acts 1941, 47th Leg., p. 181, ch. 130, see article 7880—3b1.

This act not affected by 1941 amendment of Article 7880—3a, see article 7880—3a, note.

Art. 7880—3b1. Districts in counties over 500,000; contracts; advertisement; partial invalidity of act

Sec. 2. Said Districts may enter into all necessary contracts for construction and repairs authorized by law. Where the amount exceeds One Thousand (\$1,000.00) Dollars, competitive bids on uniform written specifications shall be asked after advertisement one time in a newspaper of general circulation in the county, or in said District, for at least five (5) days prior to opening bids. Contracts shall be awarded to the lowest and best bidder, shall be reduced to writing, and a surety bond shall be required in a sum equal to the amount of the contract to insure the faithful performance of the contract and the payment of labor and materials.

Where the amount is One Thousand (\$1,000.00) Dollars or less, and more than One Hundred and Fifty (\$150.00) Dollars, proposals without advertisement may be received and contracts awarded in like manner without advertisement or the requirement for bond. Purchases may be made, or contracts entered into on emergency requisitions, where the

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amount of such purchase does not exceed One Hundred Fifty (\$150.00) Dollars, provided that all of the provisions of Articles 1667 through 1673, Revised Civil Statutes of Texas, 1925, as amended, shall apply to the accounting of such Districts and the record of purchases, except as otherwise provided herein.

Sec. 3. If any provision of this Act, or the application thereof to any person or circumstance, shall be held to be invalid, the remainder of the Act and the application of such provisions to other persons or circumstances, shall not be affected thereby. Acts 1941, 47th Leg., p. 181, ch. 130.

Filed without Governor's signature April 16, 1941.

Effective April 23, 1941.

Section 1 of Acts 1941, 47th Leg., p. 181, ch. 130, amended article 7880—3b.

Art. 7880—38a. Election of directors in large districts including two or more counties; precinct method

Exclusion of unirrigated lands from district as affecting precinct method of electing directors, see article 7880—76c, § 18.

Art. 7880—76b. Repealed. Acts 1941, 47th Leg., p. 157, ch. 119, § 20. Effective April 24, 1941.

Art. 7880—76c. Excluding unirrigated lands from districts containing more than 100,000 acres

Unirrigated lands may be excluded

Section 1. Unirrigated lands within boundaries of water control and improvement districts in this State, now existing or hereafter created, containing within their boundaries more than one hundred thousand (100,000) acres of land, may be excluded therefrom and their liability for the bonded indebtedness of such district may be limited and adjusted under the conditions and in the manner hereinafter provided.

Conditions under which lands may be excluded; petition; calling of hearing

Sec. 2. If any such district has an established and operating irrigation system from which only a part of the lands within said district can be irrigated and if more than forty (40) per cent of the lands in such district cannot be irrigated from such established irrigation system, and if such unirrigated lands have been within the boundaries of such district, and subject to taxation thereby, for as long as eight (8) years, and if the major portion of the water supply of such district is required to be impounded, before distribution, in such district's privately owned and controlled storage reservoirs, the Board of Directors of such district may, and on petition signed by the owners of twenty (20) per cent or more in assessed value of such unirrigated lands as shown by the most recent tax rolls in such district, shall, call and hold a hearing for the purpose of determining whether or not all or any part or parts of such unirrigated land shall be excluded from said district and the liability of the lands so proposed to be excluded for the bonded indebtedness of said district limited or adjusted.

Resolution

Sec. 3. Such hearing shall be provided for by resolution adopted by the Board of Directors of such district, wherein the lands so proposed to be excluded shall be described by metes and bounds or otherwise to definitely identify and to delimit the same; and wherein the date and place of such hearing shall be stated.

Notice of hearing

Sec. 4. It shall be the duty of the Board of Directors to cause notice of such hearing, addressed to all owners of land within, and all taxpayers and bondholders of, such district, to be given by posting the same at the courthouse door of the county, and each county, in which such district or any portion thereof is situated, and also to be posted in a conspicuous place in the principal office of said district, for at least three (3) weeks before the date of such hearing. Said notice shall embody the resolution providing for such hearing and shall set forth that any and all landowners, taxpayers, and bondholders of said district shall have a right to appear and be heard at said hearing and to offer evidence for or against the exclusion of said lands, or any part or parts thereof, and on the question as to the amount or portion of the bonded indebtedness of such district which the lands so proposed to be excluded shall be liable for if and after the same are so excluded.

Continuance of hearing; resolution excluding lands

Sec. 5. If, as a result of such hearing, which may be continued from day to day, and from time to time until all persons entitled to be heard and who appear at said hearing have had an opportunity to be so heard and offer evidence, the said Board of Directors shall determine and find (a) that said district does not intend, or through lack of finances or through inability of the district to obtain funds conformable to the law of Texas applicable to such district sufficient therefor, to extend the existing irrigation system of said district to said unirrigated lands or any part or parts thereof, within two (2) years after date of such hearing; or (b) that the owners of a majority in such assessed value of such unirrigated land or part or parts thereof do not desire irrigation for the same; and (c) that it would be to the best interest of said district and of the lands so proposed to be excluded or any part or parts thereof, that said irrigation system be not extended thereto and that they be excluded from said district, the said Board of Directors shall adopt a resolution setting forth such determination and findings and excluding the unirrigated lands, or such part or parts thereof as to which such determination and findings are made.

Fixing liability for indebtedness of excluded lands

Sec. 6. If as a result of said hearing the said Board of Directors shall determine that all or any part or parts of said unirrigated lands should be excluded from the District, they shall also determine and fix the amount or portion of the outstanding and unpaid principal of the bonded indebtedness of the district that the excluded lands shall remain liable for, and embody same in said resolution, showing in what manner or upon what basis said amount or portion of said indebtedness was arrived at.

Consent of bondholders

Sec. 7. Notwithstanding anything herein to the contrary, however, no such lands shall be excluded from the district and no amount or portion of the bonded indebtedness of the district for which such excluded lands shall remain liable, shall be fixed, without the written consent of the holders of at least eighty (80) per cent in principal of the outstanding bonded indebtedness of said district to such exclusion and to such amount or portion of such bonded indebtedness, that such excluded lands shall remain liable for.

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

District to bring action to determine validity; procedure

Sec. 8. Within thirty (30) days after the adoption of any resolution so excluding lands from said district and fixing the debt liability therefor consented to by said bondholders, said district shall bring an action in the District Court of any county of a judicial district in which said district, or any part thereof, may be situated, to determine the validity and justness of the resolution and acts of said Board of Directors in and by which such land or lands shall have been excluded and the debt liability thereof determined and fixed. Such action shall be in the nature of a proceeding in rem and jurisdiction of all parties interested may be had by publication of a general notice thereof once each week for at least two (2) consecutive weeks in some newspaper or newspapers of general circulation published in the county or counties in which such district or any part thereof is situated, and if no newspaper is published in said county or either of said counties, said notice shall be published in a paper published in an adjoining county to the county or to any county in which said district or any part thereof is situated. Said notice shall be addressed to all owners of land situated in, and taxpayers and bondholders of, said district (naming the same) and shall be signed by the secretary of said district. Upon the filing of the petition of said district in said action the Judge of the Court in which it is filed shall set the same down for hearing, either in term time or vacation, at the earliest time, after making allowance for time for notice herein provided for, that the court can conveniently hear the same, giving preference to said action over all other actions not of a like kind in order that a speedy determination as to the matters involved may be reached, and the time and place of said hearing shall also be stated in said notice. The said hearing may be heard on the date set therefor, or if justice to the parties or the convenience of the Court requires, the same may be postponed to a later date or dates, and when begun, the same may continue from day to day and time to time until completed.

Interested land owners may file answers

Sec. 9. Any owner of lands situated in said district, or any taxpayer or bondholder of said district who has not consented to the exclusion of said land or lands and the fixing of the debt liability thereof, may file in said Court before the date for said hearing set forth in said notice, an answer contesting the plan or basis of excluding said land or lands, or any part thereof, or the amount of debt liability fixed in said resolution against the lands so proposed to be excluded, or any part or parts of such lands. In any such answer there shall be affirmatively and specifically set forth the ground or grounds of such contest, and the particulars and respects in which it is claimed that such exclusion of land or the debt liability thereof so fixed is not valid or just, and should not be approved or validated.

Certified copy of resolution as prima facie proof

Sec. 10. At said hearing a certified copy of the resolution of said Board of Directors excluding said lands and fixing the debt liability thereof, shall be received in evidence and constitute prima facie proof of all facts recited therein, and of the validity and justness of all acts and proceedings evidenced thereby.

Hearing; decree; effect; filing; interlocutory decree dismissing proceedings, when

Sec. 11. At said hearing the Court shall try and determine all issues as in other civil cases, and if the Court be of the opinion and find that

the actions of said Board of Directors in excluding said lands and fixing the debt liability thereof as set forth in said resolution are just and valid he shall render his decree so finding, and in all things approving, confirming and validating said actions of said board, and such decree shall be final and binding on said district and all owners of land therein and all taxpayers and bondholders thereof and all persons interested in said district, and res judicata of all matters determined therein. In case such decree is rendered, a certified copy thereof and a certified copy of said resolution may be filed for record in the deed records of the county, and each of the counties, in which said excluded lands, or any part thereof, are situated.

But if the Court should find or determine that the said actions and resolutions of the said board should not be approved or validated, he shall enter an interlocutory decree dismissing said proceedings, and set forth therein his objections to such actions and resolutions of said board and his reasons for not approving and validating the same. If within sixty (60) days after the entering of such interlocutory decree or such further time as the Court may allow, the said Board of Directors shall, with the written consent of the holders of not less than eighty (80) per cent in principal amount of the outstanding bonds of said district, amend said resolution in such manner as to meet and satisfy such objections of the Court, if such objections are legally curable, the Court may, upon filing a certified copy of such amended resolution in said cause, proceed with any further hearing necessary or proper, to set aside said interlocutory decree, and render final judgment approving, confirming and ratifying the actions and proceedings of said Board of Directors as shown by said amended resolution, and such judgment shall have like force and effect as above provided.

If such amended resolution is not filed within said sixty (60) days, or any further time allowed by the Court, said interlocutory decree shall be made final.

Approval of exclusion; effect

Sec. 12. If the action of said Board of Directors in excluding lands and fixing the debt liability thereof is so approved and validated by said Court, the area so excluded shall thereupon cease to be a part of said district or within its boundaries; and shall have the principal debt liability for the bonds of the district, as so determined, approved and validated, and shall also be liable for the interest thereafter accruing on the amount of such liability, at the rate fixed in said bonds or the coupons appertaining thereto, and such liability shall be paid by taxation, or in lump sums, as hereinafter provided.

Excluded area, supplemental interest and sinking fund account for; taxes; discharge from liability

Sec. 13. If lands are so excluded and their debt liability is so determined and fixed, said district shall set up and keep a supplemental interest and sinking fund account for such excluded area, and therein a charge shall be made against such area of the total principal debt liability so fixed against the same, and all interest accruing thereon, as and when accrued. Taxes collected on taxable property in an excluded area that were assessed and unpaid at the time of such exclusion, and all taxes collected on taxable property therein that are levied and assessed after such exclusion, and all lump sum payments made to discharge any particular land or lands in such area under the further provisions hereof, shall be credited to the interest and sinking fund for such excluded area; but all such payments shall actually be placed in the interest and sink-

ing fund account of said district for paying the interest on and principal of the bonded indebtedness of such district existing at the time of such exclusion; but the taxable property in said excluded area shall never be taxed by said district for paying any other or a greater amount of bonded indebtedness of said district than that so fixed and determined, and interest thereon; provided, that said district shall levy, assess and collect on the taxable property in said excluded area such additional amount as may be necessary to pay the costs and expenses of assessing and collecting taxes in said area for the benefit of the interest and sinking fund account for said area. When the entire amount of said indebtedness so fixed against said excluded area, and all interest thereon, shall have been fully paid off and discharged from taxes and/or lump sums, collected on the taxable property in said area, all property therein shall be then and thenceforth free and discharged from any and all tax liability to said district and from liability for any indebtedness of said district.

Liability of district not affected

Sec. 14. No exclusion of land from the boundaries of said district, nor limiting of debt liability thereof, and no proceedings had under this act shall in any manner affect the liability of said district, as bounded after such exclusion, for the entire bonded or other indebtedness of such district as such indebtedness existed before and at the time of such exclusion.

Refinancing

Sec. 15. Should the bonded indebtedness of such district, liability for which is so fixed on excluded lands, be reduced by refinancing, then, in such case, the debt liability of excluded lands shall be correspondingly and proportionately reduced.

Supplemental tax rolls

Sec. 16. Said district shall set up supplemental tax rolls, separate from the regular tax rolls of said district, for the excluded area, and the district shall annually levy, assess, and collect taxes on all taxable property in said excluded area at sufficient rates and in sufficient amount, for the benefit of the bond interest and sinking fund of said district, to provide such excluded area's portion of the bond interest and sinking fund requirements of said district for such year. All provisions of law relating to taxation by such district shall apply to taxation of the lands in said excluded area by such district.

Lump sum payment of pro rata part of debt liability

Sec. 17. Notwithstanding anything herein to the contrary, the owner or owners of any land in such excluded area may at any time completely discharge such land from all tax and debt liability to said district and to the creditors thereof by paying the pro rata part of such tax and debt liability apportionable to said land, in a lump sum. Such pro rata debt liability shall be determined in the following manner; the then unpaid principal of debt liability fixed against said area and all delinquent and current interest thereon computed to the date of such lump sum payment shall be added together. There shall then be, for the purpose of calculating such pro rata liability, deducted from said sum all delinquent taxes owing on all property in the entire excluded area and all current assessed and unpaid taxes thereon, including all delinquent and current, accrued, unpaid taxes on the land so proposed to be discharged, and which must be paid before such landowner can obtain such discharge. The pro rata debt liability of the land so proposed to be excluded shall be that

proportion of the sum so arrived at by said additions and deductions that the assessed value of the land so proposed to be discharged bears to the total assessed value of all taxable property in said excluded area, according to the most recent assessment rolls of said district. The amount of said pro rata debt liability of such lands shall be ascertained and determined by the Tax Collector of said district from his tax rolls and the debt accounts of such area, and shall be audited and approved by the Board of Directors of said district. In the event of any such lump sum payment of debt liability as to any tract or tracts of land in such excluded area, the Board of Directors of the district shall cause a release of such land from all debt and tax liability to such district to be executed and delivered to the owner or owners of the lands as to which said payment is made, which release may be filed and recorded in the office of the County Clerk of the county or counties in which such discharged land, or any part thereof, is situated, as evidence of such discharge.

Directors, exclusion as affecting

Sec. 18. If at the time of any such exclusion such district shall have adopted the "precinct method" of electing its directors, as provided for in Senate Bill No. 247 enacted by the Forty-sixth Legislature, and if, as a result of such exclusion or exclusions any entire directors' precinct shall have been excluded from said district, or if there shall have been excluded from said district all of the land in a precinct owned by the director therefor, whereby such director shall have become disqualified from holding such office, then in either or both such cases the director of the precinct so entirely excluded, and/or the director whose only land owned by him in his precinct shall have been so excluded, shall cease to be such director, and the remainder of the Board of Directors shall fill such vacancy created by the entire exclusion of a precinct by appointing thereto a director at large for said district who shall own land therein and be otherwise qualified for said office, and shall fill the vacancy created by the disqualification of a precinct director on account of the exclusion of his land from his precinct, by appointing another director for such precinct who is qualified to hold such office. The director or directors so appointed to fill such vacancy or vacancies shall hold office until the second Tuesday in January next following, when their successors shall be elected at precinct elections. Previous to said election the Board of Directors of said district, upon the affirmative votes of at least three directors, shall rearrange and redefine the directors' precincts or such of them as may be necessary, to provide five directors' precincts in and for the said district conformable to the new boundaries of the district remaining after such exclusion of lands therefrom. On said second Tuesday in January an election shall be held in any new precinct substituted by number, for any entirely abolished by exclusion, and in any other precinct in which a vacancy in the office of director therefor shall have been occasioned by exclusion of land therefrom. The terms of office of the director or directors of any such new precinct or precincts shall expire at the same time or times, and his or their successors shall be elected at the same time or times as in the case of the old precinct or precincts bearing the same number or numbers.

Any such district, which shall have so adopted the "precinct method" of selecting directors, shall continue such method even if exclusion of land therefrom reduces the acreage therein to one hundred thousand (100,000) acres or less.

Cancellation of unsold bonds

Sec. 19. After such lands shall have been so excluded the District shall cancel any authorized and unsold bonds of the district not deemed by the Board of Directors to be necessary for extending the irrigation system of the district to any unirrigated lands that are not so excluded. Acts 1941, 47th Leg., p. 157, ch. 119.

Filed without the Governor's signature, April 12, 1941.

Effective April 24, 1941.

Section 20 of the Act of 1941 repealed

article 7880—76b. Section 21 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 7880—147x. Refunding bonds; procedure

For text of this article, Acts 1932, 42nd Leg., 4th C.S. p. 10, ch. 3, § 1, see article 7880—155.

Art. 7880—147y. Provision for cancellation of unsold bonds

For text of this article, Acts 1932, 42nd Leg., 4th C.S., p. 10, ch. 3, § 2, see article 7880—156.

Art. 7880—147z. Water Control and Improvement Districts wholly in one county; assignment of water contracts; bond issues, etc.

For text of this article, Acts 1934, 43rd Leg., 3rd C.S., p. 19, ch. 12, see article 7880—156a.

CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS

3. POWERS OF DISTRICT

Art.
7930—3. Exclusion of lands annexed to cities or towns of over 4,000 in certain districts [New].

Art.
7930—4. Districts within counties of over 500,000 population, additional powers of [New].

1. ESTABLISHMENT

Art. 7888. Notice of election

Fresh Water Supply Districts, election on exclusion of lands from, see article 7930—3, § 4.

3. POWERS OF DISTRICT

Art. 7930—3. Exclusion of lands annexed to cities or towns of over 4,000 in certain districts

Section 1. The Board of Supervisors of any Fresh Water Supply District situated entirely in any one county of this State and which Fresh Water Supply District, when created did not include within its boundaries any land which was within the corporate limits of any city or town, and which District has within its boundaries lands, which since the creation of such Fresh Water Supply District have been annexed to and become a part of a city or town rendering to such lands and the residents thereof the services the said District is authorized by law to render, and the population of such city or town exceeds four thousand (4,000) according to the Federal Census last preceding such exclusion and such city or town has not adopted a home rule charter under the provisions of Chapter 13, Title 28, of the Revised Civil Statutes of Texas

of 1925,¹ are authorized to exclude such lands or parts thereof from the boundaries of any such districts in accordance with the provisions of this Act and the method herein and hereby prescribed; provided, however, that such area as may be excluded shall have a part of its boundary or boundaries identical with a part of the boundary or boundaries of the District as constituted at the time of the exclusion; and provided further, that the total area of such lands which may be excluded, whether by a single or by different acts of exclusion, shall not in the aggregate exceed in area one-tenth of the total area of such District as originally constituted in the order creating the District.

Petition for meeting of Supervisors; notice

Sec. 2. The Board of Supervisors of such District may by three-fifths vote, and shall upon petition of five (5) per cent of the qualified taxpaying voters of such District, as shown by the rolls of the Tax Collector and Assessor of such District, call a meeting of said Board for the purpose of determining whether any of such lands included within the boundaries of such District shall be excluded therefrom, and such petition and the notice of such meeting shall describe by metes and bounds, or by survey numbers, or by other reasonable identification, the proposed new boundaries of the District, and shall state that it is proposed that all of the land within the boundaries of the District not included within the proposed new boundaries as set forth shall be excluded from such District. The notice of meeting shall also state the time and place thereof and that any land owner within the District within or without the proposed new boundaries, may appear at such meeting and be heard in support of or in opposition to the establishment of such new boundaries and the exclusion of the land proposed to be excluded, and such notice shall be addressed or directed 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." A certified copy of such notice shall be posted in three public places within the District, and one copy shall be published once not less than ten (10) days prior to the date of the meeting in a newspaper having a general circulation in the District, or if there is no newspaper having general circulation in the District, then in a newspaper having general circulation in the county wherein the District is situated.

Such meeting may be adjourned from day to day or from time to time as the Board of Supervisors may deem necessary or advisable.

Supervisors may call election or pass resolution excluding lands; filing resolution; effect of exclusion

Sec. 3. If by the time set for such meeting no written protest of the exclusion of lands from such District shall have been filed with the Board of Supervisors by the owner or owners of any land or lands within the District, and if no protest or protests are made at such meeting by the owner or owners of any land or lands in the District, or if such protest or protests represent less than three (3) per cent of the total superficial area of the District, the Board of Supervisors shall thereupon at their discretion either call an election as hereinafter provided upon the proposition whether the boundaries of such District shall be so altered as to exclude such land or lands or by resolution duly adopted and entered upon the minutes of their proceedings, declare such land or lands so proposed to be excluded from the boundaries of the District no longer a part of the District, and shall set forth the boundaries of the District as so altered and fixed, and a copy of such resolution signed by

a majority of the Board of Supervisors, duly attested by the secretary, shall be filed in the office of the County Clerk and recorded in the Deed Records of the County in which such District is situated, and the land or lands thus excluded shall be no longer a part of such District from and after the recording of such resolution as aforesaid; provided, however, that the withdrawn or excluded land or lands shall not be released from the payment of its/their pro rata part or share of any indebtedness existing at the date of such withdrawal, which pro rata part or share shall be as herein provided; nor shall such land or lands be released from the payment of taxes which may be delinquent at the time of such exclusion or which may thereafter become delinquent; and it shall be the duty of the Board of Supervisors to continue to levy a tax each year on such excluded land or lands as herein provided for the purpose of paying the then existing indebtedness until the taxes collected from such excluded land shall equal its pro rata share of the indebtedness at the time of withdrawal.

Protests; election; manner

Sec. 4. In the event written protest or protests are filed with the Board of Supervisors prior to the meeting provided for under Section 3 hereof, or in the event any protest or protests are made at such meeting by the owner or owners of any land or lands within the District, it shall thereupon be the duty of the Board of Supervisors to pass upon such protest or protests and to hear the evidence thereon, and if the owner or owners of as much as three (3) per centum of the land within the boundaries of the District shall protest against such exclusion, the Board of Supervisors shall thereupon call an election to pass upon the proposition whether the boundaries of such District shall be so altered as to exclude such land or lands, and such election shall be called and conducted in the same manner as provided by Articles 7888 to 7894, Revised Civil Statutes of Texas, 1925, inclusive, so far as same are applicable, except where otherwise provided herein, except that the Board of Supervisors shall perform all the functions imposed on the Commissioners Court by said Articles.

Notice of election

Sec. 5. Notice of such election, stating the time and place for holding the same, the proposed new boundaries of the District as set out in Section 3 hereof, the proposition to be voted upon and the names of the presiding officers appointed for holding the election, shall be given by the Board by posting a copy thereof in four (4) public places in the District, and one at the courthouse door for twenty (20) days prior to the date of election.

Ballots

Sec. 6. The Board of Supervisors shall provide the necessary ballot for such election, which shall have printed thereon:

“For the establishment of the new boundaries of the _____
Fresh Water Supply District No. _____.” (inserting the name of the District).

and

“Against the establishment of the new boundaries of the _____
Fresh Water Supply District No. _____.” (inserting the name of the District).

Oath of voter

Sec. 7. Every person who offers to vote at any election held under the provisions of this Act shall take the following oath before the presiding Judge at the voting place where he offers to vote, and such Judge is authorized to administer the same:

"I do solemnly swear that I am a qualified voter of _____ County, and that I am a resident property taxpayer of _____ County, Fresh Water Supply District No. _____ (inserting the number and name of the District) and have not voted before in this election."

Declaring result of election

Sec. 8. If at such election a majority of the votes cast shall be in favor of the establishment of such new boundaries, the Board of Supervisors shall thereupon enter an order declaring such election to be in favor of the establishment of such new boundaries, and such order shall be entered in the minutes of the proceedings of such Board, declaring such land or lands so excluded to be no longer a part of such District and declaring and describing the new boundaries by metes and bounds, or by survey numbers, or by other reasonable identification, and a copy of such order signed by a majority of the members of the Board of Supervisors and duly attested by the secretary shall be filed in the office of the County Clerk and recorded in the Deed Records of the county in which such District is situated, and such land or lands shall no longer be a part of the District from and after the recording of such order; provided, however, that such excluded land or lands shall not be released from the payment of its/their pro rata part or share of any indebtedness existing at the date of such withdrawal, such pro rata part or share of such indebtedness to be determined as herein provided; nor shall such land or lands be released from the payment of taxes which may be delinquent at the time of such exclusion or which may thereafter become delinquent; and it shall be the duty of the Board of Supervisors to continue to levy a tax each year upon such excluded land or lands as herein provided until the taxes collected from such excluded land shall equal its pro rata share of the indebtedness at the time of withdrawal.

Defeat of proposition; new petition not to be filed within year

Sec. 9. If the proposition to exclude such territory be defeated by a majority of the votes cast at any such election, no petition for the exclusion of all or any part of such territory shall be filed with or acted upon by the Board of Supervisors of such District within one year of such election and the Board of Supervisors of such District shall not be required to exclude any part of such territory or call another election to pass upon a proposition to so alter the boundaries of such District as to exclude any part of the territory within the area sought to be excluded at the last election at which such proposition was defeated until after the expiration of one year from the date of such election.

Bonds, warrants or certificates of indebtedness; payment of indebtedness; lien of taxes

Sec. 10. The rights of the holders of any outstanding and unpaid bonds, warrants, or other certificates of indebtedness of such Fresh Water Supply District shall be in nowise or manner diminished or impaired by any proceeding hereunder; but, as between the owners of the property within the territory excluded, as herein provided, and the owners of the property remaining within such Fresh Water Supply District, the pro rata part or share of any indebtedness existing at the date of such exclusion shall be ascertained and payment thereof made as follows:

(a) The property within the excluded area shall be charged with, and the owners of such property shall pay as their pro rata part of the indebtedness of the District, that percentage of a sum of money to be determined by deducting from whichever is greater of either the face value (par plus accrued interest) or market value of the then out-

standing indebtedness of each series of such bonds or warrants the sinking funds, reserves and deposits then held for the payment thereof which the total assessed value of all the property assessed within the excluded area bore to the total assessed value before such exclusion of all the assessed property of the entire District from which said territory is taken for the tax year within which the respective series of such indebtedness were issued and sold, the values as shown by the tax roll of the District to be used as the basis of the computation. At the time of the adoption of the resolution of exclusion as provided either in Section 4 or Section 9 hereof, the Board of Supervisors shall ascertain such pro rata share of indebtedness of the District chargeable to the excluded area as provided in this Section and shall duly adopt in its records a resolution establishing and fixing such pro rata share, and when thus ascertained, fixed and established such amount shall be binding upon all persons and property in both the excluded and the remaining areas of such District.

(b) The property remaining within the new boundaries of such Fresh Water Supply District, as such boundaries are redefined after the exclusion of territory as herein provided, shall be charged with, and the owners thereof shall pay in due course by annual taxes, the remainder of all the indebtedness of such Fresh Water Supply District.

(c) The taxes levied against all of the property within the excluded territory for the current taxable year in which the exclusion is made as herein provided shall be paid and remain, until paid, as a lien against such property excluded from such Fresh Water Supply District as though no territory had been excluded, but the amount thereof collected shall be credited against and deducted from the total sum for which the property within the excluded area and the owners thereof are liable under the above Section 10 (a), and no additional taxes or other charges shall be levied, assessed, or charged against such land for the current year in which such exclusion is made.

(d) All taxes against any land or lands within the excluded area which may be delinquent at the time for the exclusion and all taxes against any of such land or lands which may thereafter become delinquent shall have the same status they would have had if such land or lands had not been excluded, and such Fresh Water Supply District shall continue to have, exercise, and enjoy all of the liens, right and remedies it would have had against the persons and property against whom and which such taxes were assessed if the territory had not been excluded.

The principal of all taxes assessed against the excluded territory after such exclusion and collected after becoming delinquent, but before the final payment of all sums chargeable against the property so excluded, shall be credited against the amount so chargeable, as though such taxes had been collected when due. All taxes remaining delinquent after the collection of all charges herein provided for shall remain the property of such Fresh Water Supply District and be enforceable against the property on which it was assessed and the owner thereof.

(e) Any municipality authorized to do so and any person, firm, or corporation desiring to do so may pay any sum of money it desires to pay at any time toward the payment and discharge of the sum chargeable against the property within the excluded area and the owners thereof, and all such voluntary payments shall be received and receipted for by such Fresh Water Supply District as a credit on and reduction of the amount herein apportioned and charged against the excluded area.

(f) After the current year in which the exclusion is made as herein provided, the remainder of the sum chargeable against the excluded area shall be paid by the owners of the property so excluded and be collected as taxes assessed and levied annually against the property within the excluded area and the owners thereof, just as though the exclusion had not been made, on the same basis as taxes are assessed annually against the property remaining within such District, until the amount so collected from the excluded territory and the owners of property therein equals the total net sum chargeable against and recoverable of and from such excluded area as herein provided, except that the taxes and charges assessed against the property within the excluded area for the last year during which such levies and assessments are made may be lower than the rate applicable to the area not excluded in order to produce a sum of money required to discharge the balance of the sum chargeable against the excluded area, provided, however, that in any event the District shall continue to levy taxes against the lands within such excluded area each year until the pro rata share of the indebtedness chargeable to such excluded area shall have been collected by the District.

All taxes and charges of every kind herein provided for shall be subject to the same penalties and interest as other taxes levied by such Fresh Water Supply District, and such District shall have all the rights and remedies with reference thereto which it has with reference to other taxes.

Property within excluded territory; discharge of obligations; resolution

Sec. 11. Upon the payment of all of the sums herein provided for and chargeable against the property within the territory so excluded, save and except such taxes and charges as are levied but delinquent against specific pieces of property within the excluded territory, all of the property within the excluded territory, save and except that against which such delinquent taxes and charges remain unpaid, and the owners thereof, shall be fully discharged and released of each and every obligation and duty it and they have to such Fresh Water Supply District, and the Board of Supervisors of such Fresh Water Supply District shall thereupon adopt and cause to be recorded in the minutes of such District and in the Deed Records of the county in which such Fresh Water Supply District is situated a resolution setting out the fact that the property within the excluded area and the owners thereof, save and except the property against which taxes are then delinquent and the owners thereof, have fully discharged every obligation imposed by this Act and are fully released of all obligations to such Fresh Water Supply District, and such resolution shall contain a list of the property against which taxes are then unpaid, giving a brief description thereof, stating the name of the person against whom such taxes were assessed and the amount of the principal sum owing for each year for which there is a delinquency. Upon the payment of the delinquent taxes against any property listed in such resolution, the property against which such taxes were assessed shall likewise be discharged of every obligation to such District and the release thereof may be established by a certificate of the Tax Assessor and Collector of such Fresh Water Supply District certifying that all delinquent taxes against such property have been paid.

Board of Supervisors' findings as prima facie evidence of facts

Sec. 12. All findings of fact by the Board of Supervisors of any such District in connection with the proceedings herein authorized, when entered upon the minutes of such proceedings, shall constitute pri-

ma facie evidence of the existence of such facts and shall be conclusive thereof unless attached in a direct proceeding instituted in a Court of competent jurisdiction within the time and in the manner provided by the Statutes of this State for election contests.

Liability of owners and property within excluded territory after exclusion

Sec. 13. Neither the property within the excluded territory nor the owners thereof, shall ever be liable for the payment of any bonds, warrants, or other indebtedness issued or incurred by such Fresh Water Supply District after the segregation and exclusion as herein provided.

Property of District upon completion of exclusion

Sec. 14. Upon the completion of any exclusion as herein provided all of the property of such Fresh Water Supply District shall continue to be the property of such District and the owners of the property, within the excluded territory shall have no right, title, or interest therein or therein. Added Acts 1941, 47th Leg., p. 448, ch. 284, § 1.

¹ Articles 1165—1182.

Approved May 13, 1941.

Effective May 13, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

This act not affected by 1941 amendment of article 7880—3a, see article 7880—3a, note.

Art. 7930—4. Districts within counties of over 500,000 population, additional powers of

Sanitary sewer systems

Section 1. Fresh Water Supply Districts heretofore or hereafter created under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, as amended,¹ and located wholly within a county having a population in excess of five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, in addition to the powers heretofore granted, are hereby authorized to purchase, construct, acquire, own, operate, repair, improve and extend sanitary sewer systems for the collection, transportation, processing, disposal and control of all domestic, industrial and communal wastes.

Fire fighting facilities and equipment

Sec. 2. Such Districts shall be authorized to purchase, own, improve, repair, maintain and operate fire fighting facilities and equipment for the purpose of protecting the property belonging to such Districts and other properties situated within such Districts, and to maintain and operate a fire department and to employ a fire marshal and such other employees as shall be necessary therefor. Such Districts shall further be authorized to pay rewards for information leading to the arrest and conviction of a person or persons on a charge of arson in connection with the burning of property situated within the District. The District's liability for such rewards shall not exceed the sum of One Hundred (\$100.00) Dollars for each offense, regardless of the number of persons convicted therefor.

Cost, payment of

Sec. 3. The cost of constructing, purchasing, acquiring, improving and repairing such sanitary sewer systems and fire fighting equipment and facilities may be paid out of the proceeds of sale of bonds or other obligations issued by such Districts, or out of funds derived from taxes levied for maintenance purposes, or from the operation of the District's improvements, in the discretion of the Board of Supervisors. The

cost of maintaining and operating such system and facilities may be paid out of the funds derived from taxes levied for maintenance purposes, or from operating revenues, but shall not be paid out of borrowed money, whether by bonds or otherwise.

Contracts with nearby municipal corporations

Sec. 4. Such Districts are hereby authorized to contract with nearby municipal corporations or other political subdivisions for fire protection by the use of facilities and equipment of such municipal corporations or political subdivisions, and to pay the consideration therefor from any available funds other than borrowed money, whether by bonds or otherwise. Such contracts shall extend for a period not to exceed ten (10) years, as may be agreed upon by the governing bodies of the contracting parties.

Rules and regulations; peace officers

Sec. 5. Such Districts shall further have the power to adopt and enforce reasonable rules and regulations relating to the installation, maintenance and operation of plumbing fixtures and facilities within such Districts, in order to maintain safe and sanitary conditions within such Districts and to protect the lives, health and welfare of the inhabitants thereof. The Boards of Supervisors of such Districts may prescribe reasonable penalties for the breach of any rule or regulation so adopted, which penalties shall not exceed fines of more than Two Hundred (\$200.00) Dollars or imprisonment in jail for more than thirty days, or both such fines and imprisonment, which penalties shall be in addition to other penalties provided by law and may be enforced in any Court of proper jurisdiction in the County in which the District's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to the enforcement of the penalty, until a brief, substantial statement of such rule or regulation and the penalty for the violation thereof is published once a week for two consecutive weeks in a newspaper of general circulation in the area in which such District is situated. Seven (7) days after the second publication, the penalty or penalties provided shall be effective, and such rules and regulations shall be judicially known to the Courts.

Such Districts shall be authorized to employ and constitute their own peace officers, who shall be endowed with power to make arrests for the commission of any offense against the rules and regulations of the District or against the laws of the State of Texas when any such offense or threatened offense occurs within the boundaries of said Districts.

Bonds payable from revenue or from revenue and taxes authorized; taxes

Sec. 6. For the purpose of constructing, purchasing, repairing, improving and extending the improvements which such Districts are authorized by law to make, and in addition to the tax bonds which such Districts are now authorized to issue, such Districts may also issue bonds payable solely from the gross revenues received from the operation of the District's water works and sanitary sewer systems or either of them, after deduction of the reasonable cost of maintaining, operating, repairing, improving or extending such system or systems, and the net revenues of one of such systems may be pledged to the payment of bonds issued for the construction, purchase, repair, improvement or extension of another system belonging to such Districts.

Such Districts shall also be authorized to issue bonds payable both from ad valorem taxes and the net revenues of their water works systems or sanitary sewer systems, either or both, for the purposes set out

in this Section. In such case, such Districts shall levy, assess and collect ad valorem taxes until the net revenues from the operation of such system or systems, together with the money derived from taxes, may have accumulated a surplus in the sinking fund equal to the total principal and interest requirements of the Districts' combination tax and revenue bonds maturing during the current year, in which event the Districts' tax levies may be lowered to produce not less than twenty-five (25%) per centum of the principal and interest requirements for the next succeeding year, until an actual experience of three (3) successive years may demonstrate that the net revenues are wholly adequate to retire the principal and interest on such obligations as they mature; and at such time the District's tax may be wholly abated, until further experience may demonstrate the necessity again to assert the District's taxing power to avoid default in payment of said obligations as they mature.

The Boards of Supervisors of such Districts shall submit the proposition of issuing the bonds herein authorized, to a vote in the manner provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925,¹ relating to the issuance of tax bonds. The proposition submitted, in the case of revenue bonds shall be: "For the issuance of bonds and the pledge of net revenues for the payment thereof", and the contrary of such proposition; and the proposition for the issuance of combination tax and revenue bonds shall be: "For the issuance of bonds, the pledge of net revenues and the levy of taxes adequate to provide for the payment thereof", and the contrary of such proposition.

Conversion of Water Control and Improvement Districts into Fresh Water Supply Districts

Sec. 7. Such Water Control and Improvement Districts, heretofore or hereafter created in such counties, may be converted into Fresh Water Supply Districts in the following manner: The Boards of Supervisors of such Districts shall adopt resolutions declaring that in their judgment it will be to the best interest of such Districts, and will be a benefit to the lands and property therein, to become a Fresh Water Supply District under the provisions of Section 59 of Article XVI of the Constitution of Texas, which said resolution shall provide for a public hearing on such proposition at a date to be fixed by such Boards not less than fifteen (15) nor more than thirty (30) days from the date of such resolution. Notice of such hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the area in which such District is located, the first publication to be not less than fourteen (14) days prior to the time set down for hearing. Such notice shall contain a copy of such resolution or a substantial statement of the matters therein contained. At such hearing all interested persons may appear and offer testimony and other evidence. If upon such hearing said Board finds that the conversion of such Water Control and Improvement District into a Fresh Water Supply District would be to the best interests of the District, and would be a benefit to the lands and property situated therein, they shall enter their order declaring said District to be a Fresh Water Supply District and the same shall thereafter operate under the provisions of Chapter 4, Title 128, of the Revised Civil Statutes of Texas, with all amendments and additions thereto, including this Act; provided that nothing herein shall be construed to authorize the impairment of any existing contract. If such Board finds that such conversion would not be for the best interests of the District, and would not be a benefit to the lands and properties therein situ-

ated, it shall enter its order to that effect and such District shall continue to operate as a Water Control and Improvement District. The findings of said Board of Supervisors shall be final, and not subject to review or appeal.

Premiums on surety bonds

Sec. 8. The premiums on surety bonds required of officials and employees of Fresh Water Supply Districts may be paid out of any available funds of such Districts, upon order of the Board of Supervisors.

Provisions cumulative; partial invalidity

Sec. 9. The provisions of this Act shall be cumulative of all other existing laws. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Contracts

Sec. 10. Said Districts may enter into all necessary contracts for construction and repairs authorized by law. Where the amount exceeds One Thousand (\$1,000.00) Dollars, competitive bids on uniform written specifications shall be asked, after advertisement one time in a newspaper of general circulation in the county or in said District for at least five (5) days prior to opening bids. Contracts shall be awarded to the lowest and best bidder, shall be reduced to writing, and a surety bond shall be required in a sum equal to the amount of the contract, to insure the faithful performance of the contract and the payment of labor and materials.

Where the amount is One Thousand (\$1,000.00) Dollars or less, and more than One Hundred and Fifty (\$150.00) Dollars, proposals without advertisement may be received, and contracts awarded in like manner, without advertisement or the requirement for bond. Purchases may be made or contracts entered into on emergency requisitions, where the amount of such purchase does not exceed One Hundred and Fifty (\$150.00) Dollars, provided that all of the provisions of Articles 1667 through 1673, Revised Civil Statutes of Texas, 1925, as amended, shall apply to the accounting of such Districts and the record of purchases, except as otherwise provided herein. Acts 1941, 47th Leg., p. 177, ch. 129.

¹ Article 7881 et seq.

Filed without the Governor's signature April 16, 1941.

Effective April 23, 1941.

Section 11 of Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act granting Fresh Water Supply Districts heretofore or hereafter created in counties having a population in excess of five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census, additional powers relating to sanitary sewer systems, fire fighting facilities and equipment, the paying of rewards in connection with convictions on charges of arson, and providing for the manner of paying for the improvements therein authorized; authorizing such Districts to contract with nearby municipal corporations or other political subdivisions for fire protection, and prescribing the terms and conditions and method of paying the consideration for said contracts; author-

izing such Districts to adopt and enforce reasonable rules and regulations relating to plumbing fixtures and facilities within such Districts, and to prescribe penalties for the breach thereof, and requiring the giving of notice of such rules, regulations and penalties; authorizing such Districts to employ their own peace officers, and prescribing the duties thereof; authorizing such Districts to issue revenue bonds payable from the revenue derived from the operation of the District's improvements and facilities and to issue combination tax and revenue bonds, and prescribing the method of levying taxes and pledging revenues to the payment thereof, and providing for the manner and method of issuing such revenue bonds and combination tax and revenue bonds; providing for conversion of Water Control and Improvement Districts, heretofore or hereafter created, into Fresh Water Supply Districts, and prescribing the procedure for such conversion; providing that premiums on surety bonds required of Dis-

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

tract officials and employees may be paid by the District; requiring contracts for improvements herein authorized to be let on competitive bids; providing the manner and method of advertising for such bids and for letting contracts thereunder, and making certain exceptions, and providing that this Act shall be cumulative of all other existing laws, and if any pro-

vision of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby; and declaring an emergency. Acts 1941, 47th Leg., p. 177, ch. 129.

4. BONDS

Art. 7931. Election for bonds

Districts within counties of over 500,000 population, issuance of bonds for certain purposes, see article 7930-3.

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

WATER SUPPLY AND CONTROL

The following laws, though passed as general laws, are in fact special acts relating to particular conservation and reclamation districts or authorities:

Central Colorado River Authority, amended Acts 1941, 47th Leg., p. 83, ch. 69.

Colorado County Flood Control District, Acts 1941, 47th Leg., p. 568, ch. 361, Article IV.

Fayette County Flood Control District, Acts 1941, 47th Leg., p. 568, ch. 361, Article III.

Jackson County Flood Control District, Acts 1941, 47th Leg., p. 568, ch. 361, Article II.

Lavaca County Flood Control District, Acts 1941, 47th Leg., p. 568, ch. 361, Article I.

Lower Colorado River Authority, amended Acts 1941, 47th Leg., p. 657, ch. 398.

Lower Neches Valley Authority amended Acts 1941, 47th Leg., p. 1112, ch. 570.

Panhandle Water Conservation Authority, Acts 1941, 47th Leg., p. 491, ch. 308, § 5(D), set out in note under article 165a-4, provided that Acts 1937, 45th Leg., p. 507, ch. 256, should not in anywise be repealed by the Act of 1941, amending article 165a-4, but that the same should be expressly preserved in accordance with the terms of the Act of 1941. A similar provision was contained in section 17 of Acts 1939, 46th Leg., p. 7, which was omitted in the amendment of the Act of 1939 as a whole by the Act of 1941. See article 165a-4 and notes thereunder.

San Jacinto River Conservation and Reclamation District amended Acts 1941, 47th Leg., p. 769, ch. 480; Acts 1941, 47th Leg., p. 1350, ch. 613.

Upper Colorado River Authority, amended Acts 1941, 47th Leg., p. 253, ch. 174, § 1.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

2. SPECIAL POWERS

Art.

A. PORT FACILITIES

Art.

8247c. Lease to United States, or agency thereof, of lands and facilities by navigation districts containing

8247d.

municipalities of 100,000 or more [New].

Additional powers conferred on navigation districts for improvements without taxation [New].

1. ORGANIZATION

Art. 8221. 5988 Bond of county treasurer; compensation and payment of premium on bond in certain counties

The County Treasurer upon the sale of any navigation district bonds, the proceeds of which may come in his possession or under his direction or control, shall, before receiving such proceeds, and before receiving any other funds from whatever source belonging to said district, execute a good and sufficient bond payable to the navigation and canal commissioners of such district and to their successors in office, for the benefit of said district, in an amount to be fixed by the navigation and canal commissioners of said district and to be approved by said navigation and canal commissioners conditioned that such treasurer shall faithfully execute the duties of his office and pay over, according to law, all moneys that shall come into his hands as such treasurer and shall render a just and true account thereof to the Commissioners Court of the county where said district is located and the navigation and canal commissioners of said district whenever required by law or by such Commissioners Court or navigation and canal commissioners so to do. As soon as this Act shall become effective the treasurer of said district shall give the bond required by the provisions of this Act in lieu of any other bond as such treasurer which he may have given under the law as it heretofore existed and the bond herein provided for shall remain in full force and effect so long as any funds belonging to said district are in his possession or under his control or direction. The County Treasurer shall receive such compensation for his services as shall be determined by said navigation and canal commissioners. The navigation and canal commissioners of any district already created and having no district depository may, as soon as this Act becomes effective, provide for district depository for the funds of such district by complying with the laws for the designation of county depositories where applicable; and in case such depository shall be designated by the navigation and canal commissioners and shall give a good and sufficient bond approved by the said commissioners as now provided by law for depository of county funds, then, the County Treasurer, as treasurer of such district, shall be required to deposit the funds of said district in said depository which said depository so selected shall be the depository of said district until the date of the election of the navigation and canal commissioners of said district and until its successor is selected and qualified. Within thirty (30) days after the election of navigation and canal commissioners of any district created under this Act the said navigation and canal commissioners elected shall select a depository for said district in the manner provided by law for the selection of a county depository and such depository so selected shall be

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the depository of said district for a period of two (2) years thereafter and until its successor is selected and qualified.

Provided further that in any county with not less than one hundred and thirty-five thousand (135,000) population and not more than one hundred and ninety thousand (190,000) population, according to the last Federal Census, the County Treasurer shall receive, as compensation for his services as treasurer of a navigation district, a salary of Fifty Dollars (\$50) per month from the district, and the premium on the official bond of the County Treasurer in such county shall be paid by the said navigation and canal commissioners. As amended Acts 1941, 47th Leg., p. 752, ch. 471, § 1.

Filed without the Governor's signature,
June 10, 1941.

Effective June 11, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8247c. Lease to United States, or agency thereof, of lands and facilities by navigation districts containing municipalities of 100,000 or more

Section 1. Any Navigation District heretofore organized, or hereafter to be organized, under General or Special Law, which Navigation District contains a municipality which has one hundred thousand (100,000) population or more by the last preceding or by any future Federal Census, is hereby granted, in addition to all the powers now conferred upon such Navigation District, the right, power, and authority to lease any of its lands or facilities to the United States Government, or any agency thereof, or to any person, firm, or corporation whose activities are connected with, or contribute to, the construction, maintenance, operation and development of the port and its facilities and of its waterways, for any purpose expressly authorized by the statutes creating and empowering such Districts; and, in addition thereto, for the purpose of manufacturing or repairing vessels, or parts thereof, or for the construction, fabrication, operation and repair of buildings, shipways, drydocks, piers, railways, office buildings, shops, or other facilities and structures thereon, for the use or benefit of the United States Government, or of such person, firm, or corporation; and for similar purposes connected with the development and operation of ports.

Sec. 2. Such lease shall be upon such terms and conditions, and contain such provisions and stipulations, and be in such form, as may be agreed upon between the Navigation Commissioners and the lessee, provided that, if such lease is for a term of ten (10) years or less, advertising thereof may be dispensed with where the lease is with the United States Government or any agency thereof, or with any person, firm, or corporation contracting with the United States Government or any agency thereof, or with any person, firm, or corporation whose activities are connected with, or contribute to, the construction, maintenance, operation, and development of the port and its facilities and its waterways, or whose activities are connected with commerce and navigation.

Sec. 3. Such lease, when authorized by the Navigation Commissioners, shall be executed on behalf of the Navigation District by the Chairman or Vice-chairman of such Navigation District and attested by its

Secretary or Assistant-Secretary, and when so executed, shall become immediately effective.

Sec. 4. If any part of this Act shall be held to be unconstitutional or void, it shall not affect the other portions of this law.

Sec. 5. All laws and parts of laws in conflict herewith are to the extent of such conflict hereby repealed.

Sec. 6. This Act is not to be construed as a limitation upon, but is a grant of additional power to, such Navigation Districts and shall not affect their present authority to grant leases and revocable permits for limited periods of time without advertising, except in cases of mineral leases and franchises, where the advertising shall be as presently provided by the statutes. Acts 1941, 47th Leg., p. 8, ch. 6.

Approved and effective Feb. 5, 1941.

Section 7 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing Navigation Districts heretofore or hereafter organized, containing municipalities of one hundred thousand (100,000) population or more, to lease any of their lands or facilities to the United States Government, or to any agency thereof, or to any person, firm, or corporation whose activities are connected with, or contribute to, the construction, maintenance, operation, and development of the port and its facilities and of its waterways, or whose activities are connected with commerce and navigation, for any purpose expressly authorized by the statutes creating and empowering such Districts, and, in addition thereto, for the manufacture or repair of vessels, or parts thereof, or for constructing and operating buildings, shipways, drydocks, piers, railways, office buildings, shops, or other facilities and structures thereon, for the use or benefit of the United States Government, or of such person, firm, or corporation, and for similar purposes connect-

ed with the development and operation of ports; that the terms and conditions of such lease may be agreed upon between the Navigation Commissioners and the lessees; that such lease shall be executed by the Chairman or Vice-Chairman of such Navigation District and attested by its Secretary or Assistant-Secretary; and where such a lease is for ten (10) years or less and is with the United States Government, or any agency thereof, or with any person, firm or corporation contracting with the United States Government, or any agency thereof, or with any person, firm, or corporation whose activities are connected with, or contribute to, the construction, maintenance, operation, and development of the port and its facilities and of its waterways, or whose activities are connected with commerce and navigation, advertising of the said lease shall not be required; providing that unconstitutionality of any part of the law shall not invalidate the remainder; providing that all laws or parts of laws in conflict herewith are repealed; and that this Act is not a limitation upon, but is a grant of additional powers to such Navigation Districts; and declaring an emergency. Acts 1941, 47th Leg., p. 8, ch. 6.

Art. 8247d. Additional powers conferred on navigation districts for improvements without taxation

Sec. 1. Any navigation district organized or hereafter to be organized under any of the provisions of the Constitution or Laws of this State created for the development of deep water navigation in addition to the other powers conferred by law, is hereby granted and shall hereafter, in addition, have the power to borrow money and to mortgage and encumber any part or all of its properties and facilities and the franchise and revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired 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 and as additional security therefor by the terms of such encumbrance may pledge and encumber the net income and revenues from the operation of the properties and facilities of said district and may provide in such encumbrance for a grant to the purchaser under sale or foreclosure thereunder, of a franchise to operate the prop-

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

erty and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force.

Obligations a charge on encumbered property and facilities only

Sec. 2. No such obligation shall ever be a debt of such district but solely a charge upon the property and facilities so encumbered and such revenues and income shall never be reckoned in determining the power of such navigation district to issue any bonds for any purpose authorized by law.

Obligations issued; interest; maturity, etc.

Sec. 3. Such districts shall have the power to issue evidence of such indebtedness secured by said encumbrance bearing interest not exceeding six (6) per cent per annum and maturing not to exceed twenty (20) years after date thereof but said encumbrance and said evidences of indebtedness shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Lien on revenues; foreclosure of encumbrance

Sec. 4. When the revenues and income of said properties and facilities of a navigation district shall be encumbered under this law the expense of operation and maintenance necessary to render efficient service of said properties and facilities shall always be a first lien and charge against such revenues and income prior to and superior to the lien of said encumbrance. No encumbrance shall be foreclosed because of default of said district until said default has existed for a period of ninety (90) days and notice thereof has been served upon the governing body of said district.

Trustee to enforce foreclosure; franchise to purchaser under foreclosure

Sec. 5. The encumbrance may provide for a trustee to enforce foreclosure and in the event of foreclosure may provide for the grant of a franchise to the purchaser under foreclosure to operate the properties encumbered for a period not to exceed twenty (20) years from the date of default and the district shall have the option at any five-year period for twenty (20) years after default to repurchase said properties upon reasonable terms and at reasonable prices to be set forth in said encumbrance.

Borrowing for current expenses

Sec. 6. Such district shall also have the right to borrow funds for current expenses and to issue warrants therefor, payable not later than the close of any calendar year for which loans are made, such warrants not to exceed in the aggregate the anticipated revenue of the district and to bear interest not to exceed six (6) per cent per annum.

Management and control by district commissioners

Sec. 7. The management and control of any such property and facilities so encumbered during the time they are encumbered shall be in the hands of the Commissioners of said district as provided by law.

Encumbering properties, facilities, franchises, revenues, etc.; notice of hearing

Sec. 8. Whenever any such navigation district proposes to borrow money and to mortgage and encumber any part or all of its properties and facilities and franchises and revenues and income from the operation

thereof, for the purposes contemplated and authorized by Section 1 hereof, the Commissioners of such district shall issue notice of intention to authorize and to issue the evidence of any such indebtedness, and such notice shall include a statement of the amount and purpose of the proposed indebtedness, and it shall be the further duty of such Commissioners to fix a time and place at which a public hearing shall be held in respect of such proposed indebtedness, and the date of such hearing shall be not less than fifteen (15) nor more than thirty (30) days from the date of the resolution of the Commissioners issuing such notice. Such notice shall inform all persons of such time and place of hearing, and of their right to appear at such hearing and contend for or protest the creation of such indebtedness. The Secretary of the Commissioners of the district shall post true copies of such notice in three (3) public places within the district, and one copy at the door of each county courthouse that may be situated within the district. Said notice shall be posted for ten (10) days prior to the date of hearing. Said notice shall also be published in a newspaper of general circulation in the district, if a newspaper is published therein, one time, and at least five (5) days prior to such hearing. If no newspaper is published in such district, then such notice shall be published in some newspaper published in any county situated in whole or in part within the district. The duties here-in imposed upon the Secretary may be performed by any Commissioner of the district, or the Assistant Secretary.

Hearing on encumbering properties, facilities, revenues, etc.

Sec. 9. At the time and place set for such hearing, or such subsequent date as may then be fixed, the Commissioners shall proceed to hear and to determine all matters in respect of the proposed indebtedness. Any person interested may appear before the Commissioners in person or by attorney and contend for or protest the creation of the proposed indebtedness. Such hearing may be adjourned from day to day and from time to time, as the Commissioners may deem necessary. If upon the hearing it is determined by the Commissioners that the proposed improvements are necessary, feasible, practicable, and are needed, and will benefit the property in such district, then such Commissioners may adopt a resolution or order providing for the creation of the proposed indebtedness, and the issuance of the evidence thereof; and such Commissioners are authorized and empowered to adopt all necessary resolutions, orders, certificates, and trust indentures in respect to the issuance, sale, and delivery of the securities evidencing such indebtedness.

Obligations; execution; requisites

Sec. 10. Each note, warrant, or other security evidencing any indebtedness created under the provisions of this Act shall be signed by the Chairman and countersigned by the Secretary of the Commissioners of such district, and the seal of the district shall be impressed thereon; and each note, warrant, or other security may be registered as to principal by the trustee named and designated by the Commissioners of the district in the trust indenture executed by them to secure payment thereof.

Certain articles inapplicable

Sec. 11. The provisions of Articles 8240, 8241, 8242, and 8243, Revised Civil Statutes, 1925, relating to the grant of franchises by navigation districts, shall not apply to the grant of any franchises under authority of Section 5 hereof.

Sale of obligations

Sec. 12. The evidences of indebtedness hereby authorized may be sold by the Commissioners of the district on the best terms and for the best price possible.

Commissioners to supervise proceedings for borrowing money, etc.

Sec. 13. All proceedings to be taken and acts and things to be done in connection with the borrowing of money hereunder by any such district, and the mortgaging and encumbering of its properties and facilities, and the franchise and revenues and income from the operation thereof, and the issuing of its evidence of indebtedness, shall be taken and done by and under the supervision of the Commissioners of such district, it being the intention hereof that neither the Commissioners Court of any county lying in whole or in part within the boundaries of such district, nor the Navigation Board established for such district under the provisions of General Law governing the same shall be required to take any action in connection therewith nor to approve or ratify any proceedings so taken by the Commissioners of the district or any act or thing done by said Commissioners in such connection.

Validation of acts of commissioners

Sec. 14. That, in case any navigation district has commenced proceedings in respect to the creation of indebtedness under authority hereof, and notice issued and given in respect thereto, and hearing held thereon in accordance with the provisions and requirements of this Act, or any other law, General or Special, all acts and proceedings had and done in connection therewith by the Commissioners of the district, in respect to such indebtedness, and securing the payment thereof, are hereby ratified, confirmed, legalized, approved, and validated; and power and authority is hereby expressly conferred upon the Commissioners of any such district to pass and adopt all orders and resolutions, and to do all other and further acts necessary in the issuance and sale of said evidences of indebtedness.

Construction of Act

Sec. 15. This Act shall be construed as cumulative authority for the accomplishment of the purposes herein mentioned and not to be construed as repealing any existing laws on the same subject matter, it being the intent and purpose hereof to create an alternate and additional and more adequate method for the accomplishment of such purposes. Acts 1941, 47th Leg., p. 53, ch. 38.

Filed without Governor's signature, March 14, 1941.

Effective March 17, 1941.

Section 16 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act authorizing navigation districts created under any of the provisions of the Constitution or Laws of this State in addition to the powers heretofore conferred by law to acquire, extend, construct, repair, build, develop, and maintain certain improvements in aid of deep water navigation without taxation; and to borrow money therefor from the Federal Government or any other source; and to issue

and deliver evidences of such indebtedness payable only out of the net revenues of the district; and to encumber any of the properties and facilities and revenues of the district including those for which the funds are borrowed, all as additional security; providing remedies in case of default; granting to the purchaser of said properties at foreclosure sale a franchise under stipulated terms and for not more than twenty (20) years; and to enter into all necessary agreements to carry out the provisions hereof; providing a method of temporary financing for current expenses; providing that the provisions of Articles 8240, 8241, 8242, and 8243, Revised Statutes of 1925, shall not apply to franchises granted under this Act; pro-

viding that this Act shall not be construed as repealing any other laws of this State applicable to the subject matter hereof; providing for methods of procedure in

creating the indebtedness and encumbering the properties to secure the same; and declaring an emergency. Acts 1941, 47th Leg., p. 53, ch. 38.

TITLE 130—WORKMEN'S COMPENSATION LAW

PART 1

Art. 8306. Damages and compensation for personal injuries

Sec. 7-e. In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities. The association shall not be liable for replacing or repairing any artificial appliances so furnished. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee but in no event to exceed the sum of Two Hundred Dollars (\$200).

In the event the association shall fail or refuse to furnish or provide such artificial appliances, such employee shall make application to the Board for such artificial appliances. On receipt of such application the Board shall order a medical examination of the employee and obtain such other evidence as in their opinion they may deem necessary, after which the Board shall determine whether or not the artificial appliances would materially and beneficially improve the future usefulness and occupational opportunities of the injured employee and in the event they find that such improvement would exist, then the Board shall order the association to furnish the artificial appliances. Added Acts 1941, 47th Leg., p. 854, ch. 529, § 1.

Approved and effective June 18, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act

should take effect from and after its passage.

THE PENAL CODE

TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

CHAPTER FOUR.—COLLECTION OF TAXES AND OTHER PUBLIC MONEY

Excise tax on radios, cosmetics and playing cards, making false report or failure to make report, see Vernon's Rev.Civ. St., art. 7047i, §§ 3-6.

Motor fuel tax, violation of statutes relating to, see Vernon's Rev.Civ.St., arts. 7065b-4, 7065b-18, 7065b-19, 7065b-26, 7065b-27.

Occupation tax on production of lamp black, penalty for violation of provisions relating to, see Vernon's Rev.Civ.St., art. 7047(46).

Operating motor vehicle without having paid sales tax, see Vernon's Rev.Civ.St., art. 7047k.

Stock transfer and sales tax statute, penalty for violating, see Vernon's Rev.Civ.St., art. 7047m, §§ 3-6, 8.

Violation of statute relating to occupation tax on certain services in connection with oil wells, see Vernon's Rev.Civ.St., art. 7060a, § 3.

Art. 122. 131 Plumbing without license

Any person, whether as a master plumber, employing, or journeyman plumber, engaged in, working at, or conducting the business of plumbing without license as provided by law, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed One Hundred Dollars (\$100). As amended, Acts 1941, 47th Leg., p. 904, ch. 556, § 1.

Approved and effective June 30, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that

the Act should take effect from and after its passage.

Art. 131. 140, 117 Failure to collect occupation taxes

Comptroller of Public Accounts, penalty for failure to comply with regulations as to

collection of occupation taxes, see Vernon's Rev.Civ.St. art. 7047a-20.

Art. 131a. False entries as to natural gas tax; destroying or secreting records

Whoever shall, as a producer or purchaser or as agent or representative of a producer or purchaser, knowingly make any false entries or fail to make any proper entries in the books required by this Article with intent to defraud the State; or whoever, as such, shall knowingly make a false or incomplete report as required by the provisions of this Article; or whoever, as such, shall knowingly fail or refuse to make the report required to be made; or whoever, as such, shall destroy, mutilate, or secrete any of the records required to be kept by the provisions of this Article; or whoever shall, as such, hide or secrete with intent to defraud, any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and upon conviction thereof,

shall be fined in a sum of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000), or be confined in the county jail not more than twelve (12) months, or by both such fine and imprisonment.

In addition thereto, such producer or purchaser or agent thereof shall forfeit to the State of Texas, for any said offense or the violation of any of the provisions hereof, or any rule or regulation, a penalty of One Thousand Dollars (\$1,000) for each such offense to be recovered by the Attorney General in a civil suit in the name of the State of Texas; and the venue of such suit is hereby fixed in the county in which the offense occurs, and such suit may be brought separately or joined and made a part of any one civil suit provided for by this Article. The penalties prescribed in this Section, both Criminal and Civil, are in addition to any and all other penalties prescribed in this Article. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. II, § 1.

Approved May 1, 1941.

Effective May 1, 1941, 7:00 a. m.

Sections 1-6, 8, 9, of Acts 1931, 42nd Leg., p. 111, ch. 73, as amended by Acts 1941, 47th Leg., p. 269, ch. 184, art. II, § 1, are

published as Vernon's Rev.Civ.St., art. 7047b.

Investigations to determine whether tax is being properly reported, see Vernon's Rev.Civ.St., art. 7047b, § 3.

Art. 131c—1. Cigarette tax; reports and information to Attorney General or Comptroller as confidential; penalty for divulging

United States military or naval posts, camps, or exchanges, penal provisions relating to sale of cigarettes to or by as re-

spects cigarette tax, see Vernon's Rev.Civ. St. art. 7047c—3.

Art. 141a—1. Repealed. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 28

Approved May 1, 1941.

Section 30 of article XVII of the repealing Act provided that the article should take effect and be in force 30 days from and after final passage.

Penalties for violating provisions of motor fuel tax statute, see Vernon's Rev.Civ.

St., arts. 7065b—4, 7065b—18, 7065b—19, 7065b—26, 7065b—27.

Penalties incurred and offenses committed before repeal not affected by repeal, see Vernon's Rev.Civ.St., arts. 7065b—28, 7083b, § 4.

Art. 141a—2. Repealed. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVII, § 28

Approved May 1, 1941.

Section 30 of article XVII of the repealing Act provided that the article should

take effect and be in force 30 days from and after final passage.

CHAPTER SIX.—PERSONAL PROPERTY OF THE STATE

Art.

147c. Insignia of Texas Defense Guard; unlawful wearing, purchase, or sale [New].

Art. 147c. Insignia of Texas Defense Guard; unlawful wearing, purchase, or sale

Section 1. It shall be unlawful for any person not an officer or enlisted man of the Texas Defense Guard to wear either one or more of the shoulder patch, the arm brassard and the collar ornaments, which are duly prescribed as parts of the uniform of the Texas Defense Guard, or any imitation of said articles; provided that the foregoing provision shall not be construed to forbid that any person wear such shoulder

patch, arm brassard and collar ornaments in any playhouse or theatre or in moving-picture films while actually engaged in representing therein a character of said Defense Guard not tending to bring discredit or reproach upon the said Defense Guard.

Sec. 2. It shall be unlawful for any officer or enlisted man of the Texas Defense Guard to purchase, wear, or have in his possession any shoulder patch, arm brassard or collar ornaments which are duly prescribed as a part of the uniform of the Texas Defense Guard, or any imitation of said articles, unless such shoulder patch, arm brassard and collar ornaments have been purchased either through the office of the Adjutant General of Texas or on a purchase order therefor approved by the said Adjutant General or some person designated by such Adjutant General to approve such purchase order.

Sec. 3. It shall be unlawful for any person to sell or offer for sale, or dispose of, or purchase any shoulder patch, arm brassard, or collar ornaments which are duly prescribed as a part of the uniform of the Texas Defense Guard except when and as authorized under such regulations as may be prescribed by the Governor of Texas.

Sec. 4. Any person who offends against any one or more of the provisions of Sections 1 to 3 inclusive of this Act shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding Three Hundred Dollars (\$300), or by imprisonment for not exceeding six (6) months, or by both such fine and imprisonment. Each occasion upon which one or more of the provisions of said Sections 1 to 3 inclusive are offended against shall be a separate offense and punishable as such. Acts 1941, 47th Leg., p. 814, ch. 504.

Approved and effective June 14, 1941.

Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act making it unlawful for any person not a member of the Texas Defense Guard to wear the shoulder patch, the arm brassard, or the collar ornaments duly prescribed as a part of the uniform of said Defense Guard, or any imitation of said articles; also making it unlawful for any member of said Defense Guard to purchase

or have in his possession such articles of uniform, or any imitation thereof, unless they are purchased through or on approval of the Adjutant General of Texas; also making it unlawful for any person to sell, offer for sale, dispose of, or purchase any such articles except when and as authorized under regulations prescribed by the Governor; providing that any person who violates any provisions of this Act shall be guilty of a misdemeanor and prescribing punishment for such offenses; and declaring an emergency. Acts 1941, 47th Leg., p. 814, ch. 504.

TITLE 6—OFFENSES AFFECTING THE RIGHT OF SUFFRAGE

CHAPTER THREE.—OFFENSES BEFORE ELECTION

Art. 213. 263 Corporation contributing

(a) No corporation, domestic or foreign, and no officer, director, stockholder, employee or agent, acting in behalf of any corporation, shall directly or indirectly give, pay, expend or contribute or promise to give, pay, expend or contribute any money or thing of value in order to aid or hinder the nomination or election of any person to public office in this State or any district, municipality, or political subdivision thereof, or in order to influence or affect the vote on any question to be voted upon by the qualified voters of this State or any district, municipality, or political subdivision thereof, provided, however, that:

(b) In any election in this State or any district, municipality, or political subdivision thereof, wherein the question to be voted upon directly affects the granting, refusing, existence or value of any franchise

granted to a corporation which has the right of eminent domain, such corporation may present facts and arguments to the voters bearing upon such question by any lawful means of publicity and pay the expense thereof; provided, however, that all such means of publicity employed shall contain a clear statement that the same are sponsored and paid for by such corporation; and the use of any such means of publicity by such corporation which do not contain such statement shall subject such corporation to the penalties hereinafter provided. Provided that nothing in this subsection shall be construed as permitting any such corporation to directly or indirectly give, pay, expend, or contribute or promise to give, pay, expend, or contribute any money or thing of value in order to aid or hinder the nomination or election of any person to any public office in this State.

(c) If any corporation authorized by Section (b) hereof, or if any person, partnership or association makes any expenditure or incurs any obligation directly or indirectly for the purpose of influencing an election of the character described in Section (b) hereof, it shall be the duty of such corporation, person, partnership or association to file with the governing body of the political subdivision in which such election is held and also with the Secretary of State by mail, not more than ten (10) days nor less than five (5) days before the date of such election and also within ten (10) days after the date of such election, itemized, verified accounts correctly showing as of the date of filing, the amounts of money and description and value of all things given, paid, expended and contributed and the names of the recipients thereof and all amounts of money and description and value of all things promised or obligated to be given, paid, expended, and contributed, and the names of the promisees thereof, by such corporation, person, firm or association, in connection with such election; all such accounts to be verified under oath by an officer of such corporation, or by such person or member of the partnership or association as the case may be; provided, however, that no such corporation, person, partnership or association may give, pay, expend, contribute or promise to give, pay, expend, or contribute money and things of value of the total amount exceeding Seven Hundred and Fifty Dollars (\$750), or exceeding Twenty-five Dollars (\$25) for each one hundred population of the district, municipality or political subdivision according to the last preceding Federal Census in which such election is held, whichever amount is greater; provided further that such amounts expended may not, in fixing rates to be charged by such corporation, be charged as operating cost or capital. Any corporation, person, partnership or association failing to file the accounts as provided herein or filing an account which is false in any material respect, or violating the limitation or expenditures provided herein, shall be subject to the penalties hereinafter provided, but in no event shall any such corporation be authorized to spend more than Ten Thousand Dollars (\$10,000) in any one election.

(d) Any person who shall violate any provision of this Article, or as an officer, director or employee of a corporation, or as a member of a partnership or association, shall authorize or do any act in violation hereof shall be punished by a fine of not more than Five Thousand Dollars (\$5,000) or by imprisonment in jail for not more than six (6) months, or both. As amended Acts 1941, 47th Leg., p. 789, ch. 491, § 4.

Approved June 13, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 5 of the amendatory Act of 1941 read as follows: "Should any part or provision of this Act be held invalid, it is hereby declared to be the legislative in-

tent that the remaining sections, provisions and portions shall not be affected thereby, but will remain effective after omitting such invalid provisions or parts."

Section 6 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER FOUR.—ARREST AND CUSTODY OF PRISONERS

Art. 349. 1610 Mode of punishment; placing in stocks and corporal punishment prohibited

The Prison Commission may adopt such modes of punishment as may be necessary, such punishment being always humane, and placing prisoners in stocks shall be prohibited. It shall be a misdemeanor for any guard, agent, servant, picket, farm manager, or other employee of the Texas Prison System to inflict corporal punishment on the person or body of any prisoner of said prison system. Any such guard, agent, servant, picket, farm manager, or other employee of the Texas Prison System guilty of hitting, striking or whipping any such prisoner shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), and imprisoned in jail not less than thirty (30) days nor more than six (6) months.

Nothing in this Act shall be so construed as to prevent the use of all necessary means on the part of any guard, agent, servant, picket, farm manager, or other employee of the Texas Prison System in suppressing any actual riot, revolt, mutiny, or attempted escape of any prisoner or prisoners, or in defending himself when attacked by any prisoner or prisoners. As amended Acts 1941, 47th Leg., p. 341, ch. 185, § 1.

Approved May 1, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941

repealed all conflicting laws and parts of laws. Section 3 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

CHAPTER SEVEN—FAILURE OF DUTY

Art. 418a. Unconstitutional

This article, Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, §§ 15, 16, 18, was declared unconstitutional by the Court of

Criminal Appeals as being discriminatory. See *Randolph v. State*, 117 Cr.R. 80, 36 S.W.2d 484.

Art. 427d, 427e. Repealed. Acts 1941, 47th Leg., p. 914, ch. 562, § 45.

Eff. July 2, 1941

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

Labor disputes, assemblage to prevent persons from engaging in lawful vocation prohibited, see Penal Code, art. 1621b.

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY**CHAPTER FIVE—PRIZE FIGHTING, ROPING CONTESTS, ETC.****Art. 614—4. Registration fee of promoter**

Before any individual, firm, club, copartnership, association, company, or corporation may act as a promoter of either boxing or wrestling as herein defined, such promoter shall file or cause to be filed with the Commissioner of Labor at Austin, Texas, on such form as may be furnished by him a verified declaration or application, setting forth the true name, age, present actual residence, and length of time thereof, place where promoter will operate, and such other information as may be required by such printed forms when furnished, and the application filed with the Commissioner of Labor shall be accompanied with a registration or license fee, for which a permit or license may be issued by said Commissioner of Labor, for the type of license applied for, such remittance to be in such form as by law provided for other remittances to such officer, and such registration fee shall be Ten Dollars (\$10) for Boxing Promoters License and Ten Dollars (\$10) for Wrestling Promoters License in a city with a population not exceeding seven thousand, five hundred (7,500); Twenty Dollars (\$20) in cities with a population of seven thousand, five hundred and one (7,501) to seventeen thousand, five hundred (17,500) inclusive; Thirty Dollars (\$30) in cities with a population of seventeen thousand, five hundred and one (17,501) to twenty-five thousand (25,000), inclusive; One Hundred Dollars (\$100) in cities with a population of twenty-five thousand and one (25,001) to seventy-five thousand (75,000), inclusive; and Two Hundred Dollars (\$200) in a city of more than seventy-five thousand (75,000) inhabitants, and any person or group of persons acting as such promoter without so registering and remitting such license fee, and having in their possession a duly authorized permit, shall be deemed guilty of felony swindling and shall be punished accordingly. As amended, Acts 1941, 47th Leg., p. 625, ch. 377, § 1.

Filed without the Governor's signature,
June 2, 1941.

Effective June 4, 1941.

Section 4 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 614—5. Bond by promoter

Before any individual, firm, club, copartnership, association, company, or corporation may conduct, hold, or give any fistic combat, match, boxing, sparring, or wrestling contest or exhibition, such promoter shall execute and file with the Commissioner of Labor a good and sufficient surety bond in the sum of Three Hundred Dollars (\$300) where the combat is to be held in a city of not more than seventy-five hundred (7500) population; Five Hundred Dollars (\$500) where the combat is to be held in a city with a population from seven thousand, five hundred and one (7,501) to seventeen thousand, five hundred (17,500), inclusive; Seven Hundred and Fifty Dollars (\$750) where the combat is to be held in a city whose population is between seventeen thousand, five hundred and one (17,501) and twenty-five thousand (25,000), inclusive; One Thousand Dollars (\$1,000) in cities whose population is in excess of twenty-five thousand (25,000), subject to the approval of the Commissioner and conditioned for the payment of the tax hereby imposed, said

bond to be in form and kind required of an administrator of an estate in Texas, and the Attorney General in a Court of competent jurisdiction in Travis County, Texas, or any other Court having jurisdiction, may institute suit upon such bond to recover any delinquent tax and the cost incurred in ascertaining the amount and recovery of such tax; provided, if such promoter conducts such contests or exhibitions as a continuing enterprise or promotion, such bond shall be annual in effect and continue in force until the last day of the fiscal year in which same is filed and approved and shall run concurrent with the time for which license is issued, unless default be made by the principal thereof or the sureties thereon become insufficient in the judgment of the Commissioner of Labor. As amended, Acts 1941, 47th Leg., p. 625, ch. 377, § 2.

Art. 614—8. Registration of boxer or performer; fee

Before any person may perform or act as boxer, wrestler, or manager of such boxer or wrestler, or matchmaker for a promoter of boxing and wrestling contests or exhibitions, where such boxer, wrestler, manager, or matchmaker performs or renders service for money remuneration, purse or prize equivalent, or may appear or perform without remuneration in contests with or on the same card with licensed contestants, such person shall file with the Commissioner of Labor at Austin, Texas, on such form as may be furnished by him a verified declaration or application, setting forth the true name, age, present actual residence, and length of time thereof, place where and party with whom filed if other than with the Commissioner of Labor at Austin, Texas, as is herein provided, and such other information as may be required by such printed forms, and the application shall be accompanied with a license fee, such remittance to be in such form as by law provided for other remittances to such officer, and such license fee shall be Five Dollars (\$5) for each boxer or wrestler and Fifteen Dollars (\$15) for each manager of a boxer or wrestler, and Fifteen Dollars (\$15) for each matchmaker for a promoter of boxing and wrestling or otherwise for a boxer or wrestler; provided further that a license good for thirty (30) days only may, upon receipt of proper application, and when approved by the Commissioner of Labor, be issued to a boxer or a wrestler, for a fee of One Dollar (\$1). And it is further provided that each manager shall file with the Commissioner of Labor a copy of each and every contract entered into with a boxer or wrestler, and any person acting or performing without so registering and remitting such license fee shall be deemed guilty of misdemeanor swindling and shall be punished accordingly.

It is further provided that before any person may perform or act as second to a boxer or wrestler, or timekeeper at a boxing or wrestling contest, or referee of boxing and wrestling contests or exhibitions, such person shall file with the Commissioner of Labor at Austin, Texas, on such form as may be furnished by said Commissioner, a verified declaration or application, setting forth the true name, age, present actual residence, and length of time thereof, place where and party with whom filed if other than with the Commissioner of Labor at Austin, Texas, as is herein provided, and such other information as may be required by such printed forms, and the application shall be accompanied with a license fee, such remittance to be in such form as by law provided for other remittances to such officer, and such license fee shall be Ten Dollars (\$10) for such referee; provided, however, that a deputy commissioner of labor may appoint a referee for a single boxing or wrestling combat, and issue the license therefor, and said license fee shall be One

Dollar (\$1); and Two Dollars and Fifty Cents (\$2.50) for each second and timekeeper, provided, however, that a deputy labor commissioner may appoint said second and timekeeper and other necessary local officials for any single boxing or wrestling combat and issue a license therefor without charge; and provided further that adequate provisions shall be made for some person of proper authority present at the match to appoint a substitute for any referee, second, timekeeper, or any other officiating person who fails to present himself at the time of the bout; and provided further that any person acting in any of the above named capacities or performing without registering and remitting such license fees as are herein required shall be deemed guilty of misdemeanor swindling and shall be punished accordingly. As amended, Acts 1941, 47th Leg., p. 625, ch. 377, § 3.

Effective date. See note under article 614—4.

CHAPTER SIX.—GAMING

Art. 637. 569 Destroyed by order of court

Section 1. If upon hearing of the matter referred to in the preceding Article, the Justice of the Peace, County Judge or District Judge, before whom the cause is pending, shall determine that the property seized is a gaming table or bank or is used as equipment or paraphernalia for a gambling house, and was being used for gaming purposes, he shall order same to be destroyed, but any part of same may, by order of the Court be held as evidence to be used in any case until the case is finally disposed of. Property not of that character and not so used shall be ordered returned to the person entitled to possession of the same. The officer, within not less than fifteen (15) nor more than thirty (30) days from the entry of said order shall destroy all property the destruction of which has been ordered by the Court, unless the owner, lessee or person entitled to possession under this law shall, before the destruction of said property, file suit to recover same. Acts 1907, page 110.

Sec. 2. If upon a hearing of the matter referred to in Article 636, Penal Code of Texas (1925), the Justice of the Peace, County Judge or District Judge before whom the cause is pending shall determine that the property seized, or any part thereof, is not gambling paraphernalia per se, but that the same or any part thereof was used as equipment or paraphernalia for a gambling house and was being used for gaming purposes and that said property is capable of being used for some legal purposes, he may, in his discretion, by order of the Court, declare the same confiscated and cause the same to be delivered to the State of Texas, or any political subdivision thereof, or to any State institution to be kept by it for its own use and benefit. The officer shall show by his return the disposition of the property made by him, which shall be in compliance with the orders of the Court.

Sec. 3. If upon a hearing of the matter referred to in Article 636, Penal Code of Texas, the Justice of the Peace, County Judge or District Judge before whom the cause is pending, shall determine that the property seized is a gaming table, bank or gambling paraphernalia and equipment per se, or if the Justice of the Peace, County Judge or District Judge shall determine that the same, or any part thereof, was in fact used as equipment or paraphernalia for a gambling house or was being used for gaming purposes, then any money or coins seized in or

with said equipment or paraphernalia shall, by order of the Court, be declared confiscated, and the Court shall cause the same to be delivered to the State of Texas or any political subdivision thereof, or to any State institution to be used by it for its own use and benefit, or the Court may in its discretion order such money or coins to be delivered to the Grand Jury of the County in which such equipment or paraphernalia was seized, to be used by said Grand Jury for the purpose of investigating the violation of the gaming laws of this State or for the purpose of investigating violations of any of the provisions of the Penal Code of this State. At the end of the term of each Grand Jury and before the discharge of the same, the Grand Jury shall report to the District Judge impanelling the same the amount of money received under the provisions of this Section and an accounting of all funds expended, and the balance of such funds, if any, shall be turned over to the Clerk of said District Court, to be held by said Clerk until the next Grand Jury is impanelled, at which time such money will be turned over and delivered to such succeeding Grand Jury.

Sec. 4. If there is now in the hands and possession and custody of the Grand Jury, or any County official of any County in this State, money or coins seized in and with a gambling table, bank, gambling paraphernalia and equipment, or with any equipment or paraphernalia in fact used for gaming purposes, which said paraphernalia, equipment, tables and banks have been declared confiscated, or which have been ordered destroyed under the provisions of the present statute, such money or coins may be declared confiscated, and appropriated and used as provided in Section 3 for money or coins hereinafter seized; provided that all persons claiming any right, interest and title in the coins and money heretofore seized and now held by such Grand Jury, or such County official, may, within sixty (60) days from the effective date of this Act, file suit in any Court of this State having jurisdiction of the sum of money or coins involved, to establish his right, title, claim or interest in and to such money and coins. No suit shall be brought by any person or persons claiming any right, title, claim or interest in and to said money or coins after sixty (60) days from the effective date of this Act. As amended Acts 1941, 47th Leg., p. 353, ch. 192, § 1.

Approved and effective May 3, 1941.

Section 2 of the amendatory Act of 1941 read as follows: "If any part or parts of this Act be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provisions of this Act."

Section 3 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws insofar as they conflict with the provisions of this Act. Section 4 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER EIGHT.—TEXAS LIQUOR CONTROL ACT

I. INTOXICATING LIQUORS

II. MALT LIQUORS

Art.

666—20a. Tax on liquor prescriptions
[New].666—21d. Stamps; allocation of tax; ap-
plication of tax; inventory;
rules and regulations; ap-
propriation for printing [New].

Art.

667—24a. Definitions [New].

I. INTOXICATING LIQUORS

Art. 666—15. Classification of permits

(11) Carrier Permit. The word "carrier" when used in this Section shall mean and include water carriers, airplane lines, all steam, electric, and motor power railway carriers, and common carrier motor carriers operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas or such certificates issued by the Interstate Commerce Commission. The holders of such certificates shall be authorized to transport liquor into and out of this State and between points within this State. Such carriers shall furnish such information concerning the transportation of liquor as may be required by the Board. The restrictions contained in this Section shall not apply when in the course of an interstate or foreign shipment of liquor it is necessary to cross the State in the course of such transportation.

It shall be unlawful for any carrier to hold or store any liquor consigned to the holder of a medicinal permit for a period of time exceeding seventy-two (72) hours from the time of receipt, at any terminal or storage place where such liquor is to be received by the consignee.

The annual fee shall be Five Dollars (\$5). As amended Acts 1941, 47th Leg., p. 471, ch. 298, § 3.

Effect of amendatory act of 1941, cited to the text, see section 4 of the act, set out in note under subsec. 18 of this article.

Partial invalidity of the Act of 1941, cited to the text, effect of, see section 5 of the Act, set out in note under subsection 18 of this article.

(18) Medicinal Permits. The owner of a pharmacy properly qualified as a pharmacy under the laws of this State shall be entitled to receive a medicinal permit and to buy and dispense liquor at such pharmacy for medicinal purposes only. And such pharmacy must be a bona fide pharmacy, continuously operated and continuously located for a period of not less than two (2) years in the particular justice precinct, incorporated town or city in which located at the time a permit is sought; provided, however, no pharmacy which has moved within two (2) years immediately preceding the date of application into an incorporated town or city shall be entitled to a permit, and such pharmacy for which a permit is sought must, for a continuous period of two (2) years immediately preceding the date of application for a permit, have been registered with the State Board of Pharmacy and have had for such time employed in its service at all times a registered pharmacist. No permit shall be issued to any pharmacy previously holding a medicinal permit which had been cancelled after the effective date of this Act within a period of two (2) years from the date such cancellation had become effective.

Each and every applicant for a permit must present with such application a certificate issued by the State Board of Pharmacy, showing the registration record with that Board during the preceding two (2) years.

A pharmacy permit shall be cancelled by the Board of Administrator if the pharmacy for which the permit was issued moves into an incorporated town or city wherein such pharmacy has not been continuously located for a period of two (2) years or moves from the particular justice precinct in which the permit was issued.

It shall be unlawful for any holder of a medicinal permit, or the agent, servant, or employee thereof, to:

(a) Sell or dispense any liquor except upon a prescription issued by the holder of a physician's permit as required by this Act.

(b) Sell or dispense any liquor upon a prescription which does not meet the specifications required by this Act.

(c) Sell or dispense any liquor more than once on any prescription required by this Act.

(d) Sell or dispense any liquor upon a prescription bearing a date more than three (3) days prior to the date upon which the prescription is presented for filling.

(e) Sell or dispense any liquor not meeting the standards established by the United States Pharmacopoeia.

(f) Sell or dispense any liquor upon a prescription with knowledge of the fact that such prescription was written without physical examination of the patient by the physician prescribing such liquor.

(g) Sell or dispense any liquor to any person with knowledge of the fact that the name of the person to whom the prescription was issued is other than the true name of such person.

(h) Sell or dispense any liquor for any other than medicinal purposes.

(hh) Permit any liquor to be consumed on the premises.

(i) Sell or dispense more than one pint of liquor to any one person in any one day.

(j) Sell or dispense any liquor to any person without having first obtained physical possession of the prescription for such liquor.

(k) Sell or dispense any liquor upon a prescription bearing any false statement or information.

(l) Sell or dispense any liquor without first carefully examining the prescription upon which such sale is made.

(m) Prepare any prescription for liquor.

(n) Have in physical possession more than ten (10) gallons of liquor at any one time.

(o) Fail to preserve and keep for a period of two (2) years for inspection of any representative of the Board, or any peace officer or county or district attorney, at all times, any prescription upon which liquor has been sold.

(p) Fail to make or keep and to produce upon demand of any representative of the Board, or any peace officer or county attorney or district attorney, for a period of two (2) years, any other records required by the Board to be made and kept.

(q) Fail to make any report to the Board within the time required for such report to be made.

(r) Make or cause to be made to the Board any report required to be made which is false in any particular.

(s) Fail or refuse to divulge to any representative of the Board or to any peace officer or to any county or district attorney any information concerning the purchase, storage, or disposal of liquor.

(t) Compensate in any manner any physician in this State for writing a prescription; or to guarantee to any physician any income, more or less, for the writing of prescriptions for liquor.

(u) Sell or dispense liquor in any one week, beginning Sunday at midnight, upon prescriptions exceeding in number prescriptions filled for other medicines, excluding narcotics.

(v) Fail to affix to any container of liquor sold a label bearing in the English language the full name and address of the pharmacy making the sale, name and address of the physician prescribing, the full name and address of the patient to whom the sale is made, directions for use, and the signature of the pharmacist filling the prescription; or to fail to place on such label the number of the prescription being filled.

(w) Purchase or acquire stocks of liquor from any other person except the holder of a wholesaler's permit in Texas.

(x) Sell or dispense any liquor, with or without a prescription, to any person under the age of twenty-one (21) years, unless such person presents with such prescription a written consent of a parent or guardian upon which liquor may be prescribed and sold to such person; or to fail to file written consent with the prescription for such liquor.

(y) Sell or dispense any liquor, with or without a prescription, to any person showing evidence of intoxication.

(z) Fail to produce prescriptions for each container of liquor disposed of or unaccounted for.

The Board shall have the right by rule and regulation to require the keeping of records and the making of reports such as it may deem necessary and to pass rules and regulations governing permit holders in order to properly enforce the provisions of this Act.

The annual permit fee for a medicinal permit for pharmacies in dry areas shall be Ten Dollars (\$10), and in wet areas the annual fee shall be the same as the annual fee for a package store permit. As amended Acts 1941, 47th Leg., p. 471, ch. 298, § 1.

Approved and effective May 19, 1941.

Sections 4 and 5 of the amendatory Act of 1941, read as follows: "Sec. 4. The amendment of any section or any portion of a section of the Texas Liquor Control Act by the enactment of this bill shall not affect nor impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such amendment shall take effect; but every such act done or right vested or accrued, or proceeding, suit, or prosecution had or commenced, shall remain in full force and effect to all intents as if such section or part thereof amended had remained in force. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when any section or part thereof shall be repealed or amended by

this Act, shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior Statute or part thereof had not been repealed or amended.

"Sec. 5. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of the Act; and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity."

Section 6 declared an emergency and provided that the Act should take effect from and after its passage.

(19) Physician's Permits. A physician licensed by the State Board of Medical Examiners, authorizing the administration of internal medicine to human beings, may obtain a physician's permit. Such permit shall qualify such physician to write prescriptions for medical purposes, subject to restrictions herein contained.

No person who has been convicted for any violation of this Act, or who has had any permit provided by this Act cancelled within two (2) years preceding the date of filing an application for a permit, shall be entitled to a physician's permit.

Each applicant for a permit must present with the application a certificate issued by the State Board of Medical Examiners showing qualification to hold a permit under the terms of this Act.

The annual fee for such permit shall be One Dollar (\$1).

It shall be unlawful for any physician to:

(a) Prescribe liquor for any purpose unless he be the holder of a physician's permit.

(b) Prescribe liquor for any other than medicinal purposes.

(c) Issue prescriptions for liquor to any person without first having made a physical examination of the patient's person for the purpose of determining the disease or ailment afflicting such person.

(d) Issue to any person a prescription which does not bear thereon in the English language all of the information required by the specifications for prescriptions as defined by this Act.

(e) Accept any sort of compensation or guarantee as to income or material benefit from any holder of a medicinal permit for writing a prescription, or prescriptions, for medicinal liquor.

(f) Prescribe more than one pint of liquor to any one person in any one day.

(g) Prescribe liquor to any person showing evidence of intoxication.

(h) Knowingly prescribe liquor to any person under any name other than the true name of the person for whom such liquor is intended.

(i) Prescribe liquor for any person under the age of twenty-one (21) years, unless with the written consent of such person's parent or guardian.

(j) Fail or refuse to make and keep for a period of two (2) years any record of prescriptions issued for liquor as may be required by the Board; or to fail to make any reports as and when required by the Board; or to fail to divulge any information or to produce any records as to the issuance of prescriptions when called upon to do so by any representative of the Board, or any peace officer, or by any county or district attorney.

(k) Issue in the aggregate of more than one hundred (100) prescriptions in any period of ninety (90) days, beginning from the date designated by such physician in any order placed with the Board for such prescriptions.

Forms for prescriptions as referred to herein shall be only those forms prescribed and furnished by the Board in such form and manner as the Board may by rule and regulation determine. Such prescriptions, when issued, must bear thereon the date of issuance; the name and address of the issuing physician; the name, address, sex, and age of the patient; diagnosis of the disease or ailment of the patient; amount and type of liquor prescribed; directions as to the use by the patient; and the signature of the issuing physician. The prescribing of liquor on any form not obtained from the Board or in any manner not meeting the requirements herein specified shall be in violation of this Act. The Board shall have authority to adopt such regulations as to the printing of and issuance of prescription blanks, the keeping of records of prescriptions issued, the making of reports, and the disposal of unused, mutilated, or defaced blanks, as it may deem necessary to require physicians to strictly conform to the provisions of this Act. Added Acts 1941, 47th Leg., p. 471, ch. 298, § 2.

Partial invalidity of the Act of 1941, cited act, set out in note under subsection 18 of to the text, effect of, see section 5 of the this article.

Art. 666—20a. Tax on liquor prescriptions

(a) There is hereby levied a tax upon every prescription for liquor, when the same is filled by a pharmacist, in the sum of twenty-two (22) cents.

(b) The tax herein levied shall be paid by the affixation of a tax stamp to each prescription before the liquor prescribed thereon is sold or dispensed by the pharmacist.

(c) The Texas Liquor Control Board shall by rule and regulation require the keeping of such records and the rendering of such reports as it may deem advisable in order to enforce compliance with this Article.

(d) The tax herein levied shall be a liability upon the owner or owners of the pharmacy or drug store selling liquor upon the prescription of a doctor, and unless such tax is paid it may be recovered by suit filed by the Texas Liquor Control Board in Travis County, Texas, against any person liable for the payment of tax. Failure to pay any tax due shall constitute grounds for revocation of any permit authorizing the sale of liquor on prescription.

(e) Tax stamps herein required shall be prescribed by the Texas Liquor Control Board, and upon requisition of the Board shall be printed under the direction of the Board of Control and furnished to the State Treasurer. The State Treasurer shall furnish such stamps only to the holders of medicinal permits in Texas. Such stamps shall have printed thereon such serial number or other means of identification as the Texas Liquor Control Board may require, and each stamp shall be in duplicate counterparts so that one of each such counterparts may be affixed to the container of liquor and to the prescription upon which such liquor is sold. The Texas Liquor Control Board is hereby authorized to promulgate such regulation as may be deemed necessary as to the affixation of stamps, the cancellation thereof, and the accounting therefor.

(f) It shall be unlawful for any person to sell any liquor upon a prescription therefor until and unless there shall first be affixed to such prescription the tax stamp herein required. It shall be unlawful for any person to sell any liquor upon a prescription therefor unless and until there shall first be affixed to such container of liquor the counterpart of a tax stamp as herein required. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 20a, added Acts 1941, 47th Leg., p. 269, ch. 184, Art. IX, § 1.

Approved May 1, 1941.

Effective thirty days after May 1, 1941, effective date of this Act.

Section 2 of Article IX of the amendatory Act of 1941, cited to the text, provided that the funds derived from the prescription stamp, tax therein levied shall be allocated as provided in such act. See Article 7083a.

Sections 3 and 4 read as follows:

"Sec. 3. Before allocation of funds derived from the prescription stamp tax herein levied, there are hereby appropriated therefrom, to be available to the Texas Liquor Control Board, such funds as may

be necessary for the printing of tax stamps herein provided, for the payment of salaries and expenses of four (4) auditors, to be paid at a rate of salary not exceeding salaries for auditors as provided in the General Appropriation Bill for such services, and for other expenses incurred in the printing of forms, preparation of records, and adoption of regulations such as this Article may require.

"Sec. 4. The provisions of this Article shall become effective thirty (30) days from effective date of this Act."

Lien of taxes, fines, penalties and interest, see Vernon's Rev.Civ.St., art. 7083b.

Art. 666—21. Fees and taxes

There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act the following:

(a) A tax of One Dollar and Twenty-eight Cents (\$1.28) per gallon on each gallon of distilled spirits, provided the minimum tax on any package of distilled spirits shall be eight (8) cents.

(b) A tax of ten (10) cents on each gallon of vinous liquor that does not contain over fourteen (14) per cent of alcohol by volume.

(c) A tax of twenty (20) cents on each gallon of vinous liquor containing more than fourteen (14) per cent and not more than twenty-four (24) per cent of alcohol by volume.

(d) A tax of twenty-five (25) cents on each gallon of artificially carbonated and natural sparkling vinous liquor.

(e) A tax of fifty (50) cents on each gallon of vinous liquor containing alcohol in excess of twenty-four (24) per cent by volume.

(f) A tax of fifteen (15) cents on each gallon of malt liquor containing alcohol in excess of four (4) per cent by weight.

The term "first sale" as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act; provided, however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be impracticable to require the affixing of such stamp on the bottle or container. In the case of wines, the stamp shall be affixed to every container intended to be sold as an unbroken package to the ultimate customer. And no wine shall be sold for consumption on the premises of a person holding a Wine and Beer Retailer's Permit except from a container having the State tax stamp affixed thereto. And any person, persons, or association who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year. Every holder of a permit authorizing the wholesaling of liquor, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, shall prepare and furnish such information and such reports as may be required by rules and regulations of the Board. Any person authorized to export liquor from this State having in his possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of twenty-five (25) cents shall be made for every such stamp, except that a charge of ten (10) cents shall be made for each such stamp placed on vinous or malt liquors of twenty-four (24) per cent alcoholic content or less. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors within twenty-four (24) hours after such liquors

have been removed from their place of business. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. VII, § 1.

Approved May 1, 1941.

Effective May 31, 1941, 12:00 p. m.

Section 6a of Article VII of the amendatory Act of 1941, cited to the text, appropriated not exceeding \$2500 derived from the sale of liquor tax stamps before the proceeds of the sales were allocated to defray the costs of printing additional liquor stamps.

Section 7 provided that the amendment of

1941 to Articles 666—21 and 666—21d should be effective and become law at twelve o'clock midnight May 31, 1941, anything in the Act of 1941 to the contrary notwithstanding.

Acts 1941, 47th Leg., p. 269, ch. 184, Art. VII, §§ 2-6 are published as Vernon's Rev. Pen. Code, art. 666—21d.

Lien of taxes, fines, penalties and interest, see Vernon's Rev. Civ. St., art. 7083b.

Art. 666—21d. Stamps; allocation of tax; application of tax; inventory; rules and regulations; appropriation for printing

Sec. 2. Stamps for distilled spirits evidencing the tax levied in subdivision (a) of Section 1 of this Article shall be supplied by the Treasurer to all authorized to purchase them at a discount of two (2) per cent of the face value thereof when purchased in lots of Five Hundred Dollars (\$500) or more.

Sec. 3. The tax levied in subdivision (a), Section 1 of this Article of this Act shall be allocated as hereafter provided in this Act; providing that such tax shall, before allocation, bear a proportionate amount of the costs of administration and enforcement of the Texas Liquor Control Act as now provided in the General Appropriation Act. The other taxes levied in this Article shall be allocated as heretofore provided by law. Any laws in conflict herewith are repealed to the extent of such conflict only.

Sec. 4. It is further provided that the tax herein levied shall apply and attach to all liquor which shall be in storage or in the possession of any person for the purpose of sale, and that all persons having possession of any liquor for the purpose of sale shall on the effective date hereof render and submit to the Texas Liquor Control Board at Austin, Texas, a true and correct sworn inventory of all such liquors, setting forth in detail the size of containers and the quantity thereof. Such inventory shall be rendered upon a form to be prescribed and furnished by the Board. Such inventory must be placed in the United States mail, addressed to the Texas Liquor Control Board at Austin, Texas, within twenty-four hours of the effective date hereof, and a true, correct, and exact copy thereof must be retained by the person making such report. Failure or refusal to render such inventory shall be deemed sufficient grounds for the cancellation of any permit or license by the Board, and, in addition thereto, any such person shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the County Jail for any term not more than one (1) year, or by both such fine and imprisonment.

Sec. 5. It is further provided that the Texas Liquor Control Board shall have printed and supplied to the State Treasurer, and the State Treasurer shall have on demand, tax stamps of such values as will enable any person having possession of liquors with legal and valid Texas tax stamps affixed of a lower rate of assessment than is herein provided to affix an additional stamp on each container so that the added amount of tax paid, as represented by such additional stamp together with the one originally affixed, will equal the amount of tax herein levied. All liquors in containers to which have not been affixed proper tax stamps, or stamps in the aggregate to show payment of tax as herein levied, are

hereby declared to be illicit beverages and subject to seizure and forfeiture as otherwise provided by law, and any person in possession thereof shall be prosecuted for the possession of illicit beverages as provided by law.

Sec. 6. The Texas Liquor Control Board is hereby authorized to promulgate and enforce rules and regulations requiring the filing of inventories and the issuance and distribution of stamps through its representatives, and for the inspection of liquor stocks wherever they may be in this State, such as may be deemed necessary to enforce compliance with this Article. Acts 1941, 47th Leg., p. 269, ch. 184, Art. VII.

Approved May 1, 1941.

Effective May 31, 1941, 12:00 p. m.

Section 7 of Article VII of the amendatory Act of 1941 provided that the amendment of 1941 to Articles 666—21 and 666—21d should be effective and become law

at twelve o'clock midnight May 31, 1941, anything in the Act of 1941 to the contrary notwithstanding.

Acts 1941, 47th Leg., p. 269, ch. 184, art. VII, § 1, amended Article 666—21.

II. MALT LIQUORS

Art. 667—24a. Definitions

1. Outdoor Advertising—The term "outdoor advertising" as used herein shall mean any sign bearing any words, marks, description or other device and used to advertise the alcoholic beverage business of any person engaged in the manufacture, sale or distribution of beer, or in the advertisement of any brewery product containing alcohol in excess of one-half of one ($\frac{1}{2}$ of 1%) percent by volume, when such sign is displayed anywhere outside the walls or enclosure of any building or structure where there exists a license or permit to sell beer or wine at retail. The term "outdoor advertising" shall not be inclusive of any advertising appearing in a newspaper, magazine, or other literary publication published periodically. Any such sign erected inside a building and within five (5) feet of any exterior wall of such building facing a street or highway and so placed that it may be observed by a person of ordinary vision from outside the building, shall be deemed outdoor advertising. For the purposes of this section the word "sign" shall not include any identifying label affixed to any container as authorized by law.

Billboard—The word "billboard" as used herein shall mean a structure directly attached to the land, or to any house or building, and having one or more spaces used for displaying thereon a sign or advertisement of the alcoholic beverage business of any person engaged in the manufacture, sale or distribution of beer, or for the advertisement of any brewery product containing alcohol in excess of one-half of one ($\frac{1}{2}$ of 1%) percent by volume, whether or not such structure or sign be illuminated by artificial means. The term 'billboard' shall not be inclusive of any wall or other part of any structure used as a building, fence, screen, front or barrier.

Electric Sign—The term "electric sign" as used herein shall mean a structure or device, other than an illuminated billboard, by means of which artificial light created through the application of electricity is utilized for the advertisement of the alcoholic beverage business by any person engaged in the manufacture, sale or distribution of beer, or for the advertisement of any brewery product containing alcohol in excess of one-half of one ($\frac{1}{2}$ of 1%) percent by volume.

2. All outdoor advertising as herein defined is hereby prohibited within the State of Texas except as herein expressly provided:

(a). The use of billboards or electric signs as herein defined having a surface of not less than one hundred eighty (180) square feet is hereby authorized unless located or to be located in a manner contrary to the limitations imposed by this Act.

(b). The holder of a Beer Retailer's License or a Wine and Beer Retailer's Permit is hereby authorized to erect or maintain at his place of business one (1) sign only, containing the word 'beer' or the words "beer and wine", which sign may be so placed within or without his place of business as to be visible to the general public. No such sign shall contain letters of greater height than twelve (12) inches, and no such sign shall contain any wording, insignia or device representative of the brand or name of any alcoholic beverage or the manufacturer of any alcoholic beverage. The Board or Administrator is hereby authorized to expand this provision to the extent of permitting a licensee to erect or maintain one such sign at each entrance or side of a building occupied by a licensee and facing more than one street or highway.

(c). The use of billboards, electric display signs or other signs to designate the firm name or business of any holder of a Manufacturer's or Distributor's License when displayed at the place of business of such licensee is hereby authorized.

(d) The use of printed or lithographed advertising material inside a premise where there exists a license to sell beer at retail, when used as part of a temporary window display of beer for sale on the licensed premise, is hereby authorized, provided advertising material so used may not be placed within eighteen (18) inches of any window or opening facing upon a street or highway.

(e). The Board shall have the power and authority and it is hereby made its duty to adopt rules and regulations authorizing such use of business cards, menu cards, stationery, and service equipment or delivery equipment bearing advertisement of beer as the Board may find not to be in conflict with the purposes of this Act.

3. It shall be unlawful for any person to erect or maintain any billboard or electric sign in violation of any ordinance of an incorporated city or town.

It shall be unlawful for any person to erect or maintain any billboard or electric sign within an area or zone where the sale of beer is prohibited by law.

It shall be unlawful for any person to erect or maintain any billboard or electric sign within two hundred (200) feet where there exists a license to sell beer at retail, except by express permission of the Administrator, given after determination by the Administrator that the erection of any such billboard or electric sign does not serve to advertise or direct patronage to any particular place of business licensed to sell any alcoholic beverage at retail.

4. It shall be unlawful for any person to erect or maintain any billboard or electric sign within two hundred (200) feet of any place where there exists a license to sell beer at retail after the effective date of this Act, without first securing from the Texas Liquor Control Board a permit to erect or maintain such billboard or electric sign; provided no such permit shall be required for billboards or electric signs having a surface of one hundred eighty (180) square feet, or more, if not located within two hundred (200) feet of any place where there exists a license to sell beer at retail. Application for any such permit shall be addressed to the Board or Administrator upon such form as may be prescribed and containing such information as may be deemed necessary by the Board or Administrator. The application shall be made under oath and shall

state in addition to such other information as may be required by the Board, that the erection or maintenance of any such billboard or electric sign will not serve to advertise or direct patronage to any particular place of business licensed to sell any alcoholic beverage at retail.

The Board or Administrator shall refuse to issue a permit for the erection or maintenance of any billboard or electric sign if it finds any statement in the application therefor to be false; and the Board or Administrator shall grant the permit for erection or maintenance of any such billboard or electric sign if it finds all statements in the application therefor to be true, and if it finds that the erection or maintenance thereof would not be contrary to this Act or any lawful rule or regulation of the Board.

All billboards and electric signs authorized by this Act shall be subject to all applicable provisions of Section 24, Article II of the Liquor Control Act.¹

It shall be unlawful for any person to erect, maintain or display any outdoor advertising, billboard, or electric sign not conforming in all respects to the provisions of this Act; and any billboard or electric sign displayed contrary thereto is hereby declared illegal equipment and subject to seizure and forfeiture as provided for such action in respect to illicit beverages and other illegal equipment under the provisions of this Act.

The owner of any outdoor advertising the erection, maintenance or display of which would be in violation of the provisions of this Section shall be responsible for the removal thereof from public view within one hundred twenty (120) days from the effective date of this section, and failure so to remove shall be a violation of this Act. The Board or Administrator shall have authority to grant a further time extension of one hundred twenty (120) days in any case where removal within the one hundred twenty (120) day period may in the judgment of the Board or Administrator be impracticable.

5. Declaration of Policy. It is hereby declared that the excessive or indiscriminate display of outdoor advertising for beer, and the display of such advertising at retail establishments authorized to sell beer, is detrimental to the public interest, and that the use of billboards or electric signs of smaller surface than herein authorized encourages the excessive and indiscriminate use of outdoor advertising, and should be prohibited by law. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 2, § 24-a, as added Acts 1941, 47th Leg., p. 684, ch. 427, § 1.

¹ Article 667—24.

Approved May 29, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 12—PUBLIC HEALTH

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art. 725b. Narcotic drug regulations; definitions

Preparations exempted

Sec. 8. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

Administering, dispensing, or selling at retail of any medicinal preparation that contains in one (1) fluid ounce, or if a solid or semi-solid preparation, in one (1) avoirdupois ounce, not more than one (1) grain of codeine or of any of its salts.

The exemption authorized by this Section shall be subject to the following conditions: (1) That the medicinal preparation administered, dispensed, or sold, shall contain in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone; and (2) that such preparation shall be administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this Act. As amended Acts 1941, 47th Leg., p. 647, ch. 392, § 1.

Approved May 31, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws. Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Amendment Effective Sept. 1, 1943. Effective Sept. 1, 1943, section 1-a of the amendatory Act of 1941, Acts 1941, 47th Leg., p. 647, ch. 392, repeals the amendment by section 1 of the Act and, in lieu thereof, amends section 8 of this article to read as follows:

"Section 8. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

"(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one (1) fluid ounce, or if a solid or semi-solid preparation, in one (1) avoirdupois ounce, (a) not more than two (2) grains of opium, (b) not more than one-quarter ($\frac{1}{4}$) of a grain of morphine or of any of its salts, (c) not more than one (1) grain of codeine or of any of its salts, (d) not more than one-eighth ($\frac{1}{8}$) of a grain of heroin or of any of its salts, (e) not more than one-half ($\frac{1}{2}$) of a grain of extract of cannabis nor more than one-half ($\frac{1}{2}$) of a grain of any more potent derivative or preparation of cannabis, (f) and not more

than one (1) of the drugs named above in clauses (a), (b), (c), (d), and (e).

"(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this Act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

"The exemptions authorized by this Section shall be subject to the following conditions:

"(a) No person shall prescribe, administer, dispense, or sell under the exemptions of this Section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this Section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which such preparation is prescribed, administered, dispensed, or sold, within any forty-eight (48) consecutive hours, with more than four (4) grains of opium, or more than one-half ($\frac{1}{2}$) grain of morphine or of any of its salts, or more than two (2) grains of codeine or of any of its salts, or more

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

than one-quarter ($\frac{1}{4}$) of a grain of heroin or of any of its salts, or more than one (1) grain of extract of cannabis or one (1) grain of any more potent derivative of or preparation of cannabis, or will provide such person or the owner of such animal, within forty-eight (48) consecutive hours, with more than one preparation exempted by this Section from the operation of this Act.

"(b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic

drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

"Nothing in this Section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this Act."

Record to be kept

Section 9. (1) (Physicians, Dentists, Veterinarians, and other Authorized Persons). Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this Sub-Section if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up by him, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Provided, that no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one (1) patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight (48) consecutive hours, (a) four (4) grains of opium, or (b) one-half ($\frac{1}{2}$) of a grain of morphine or of any of its salts, or (c) two (2) grains of codeine or of any of its salts, or (d) one-fourth ($\frac{1}{4}$) of a grain of heroin or of any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated. Provided, however, any one can purchase one (1) ounce of paregoric for medical purposes without a prescription. As amended Acts 1941, 47th Leg., p. 647, ch. 392, § 2.

Approved May 31, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art.
802b. Subsequent offense of driving while intoxicated; felony [New].

Art.
802c. Punishment of intoxicated driver involved in accident or doing act otherwise felonious [New].

Art. 802. Driver intoxicated or under influence of intoxicating liquor

Any person who drives or operates an automobile or any other motor vehicle upon any public road or highway in this State, or upon any street or alley within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor, and upon conviction, shall be punished by confinement in the County Jail for not less than ten (10) days nor more than two (2) years, or by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or by both such fine and imprisonment. As amended Acts 1941, 47th Leg., p. 819, ch. 507, § 1.

Passed over the Governor's veto, June 17, 1941.

Filed without the Governor's signature, June 17, 1941.

Effective June 17, 1941.

Section 4 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 802a. Placing drunken drivers on probation [Repealed]

This article is impliedly repealed by art. 6687a of the Civil Stat. See note 2 under this article.

2. Repeals

Provision of Vernon's Rev.Civ.St. art. 6687a, § 16 that conviction for violation of art. 802, denouncing the driving of a motor vehicle while intoxicated shall automatically suspend license of one so convicted for period of 6 months for first conviction, operated to repeal this article providing that jury shall add to their verdict the length of time defendant shall be prohibited from driving, not to exceed 2 years. Harris v. State, 133 Cr.R. 126, 109 S.W.2d 201; Harris v. State, 133 Cr.R. 129, 109 S.W.2d 203.

That provision of Vernon's Rev.Civ.St. art. 6687a, § 16 that conviction for violation of art. 802 denouncing the driving of a motor vehicle while intoxicated shall automatically suspend license of one so convicted for period of 6 months for first conviction, did not apply to some motor driven vehicles, such as tractors and road

graders, would not prevent such statute from repealing this article which included such motor driven vehicles as tractors and road graders. Harris v. State, 133 Cr.R. 129, 109 S.W.2d 203.

This article held repealed by Vernon's Rev.Civ.St. art. 6687a, relating to driver's licenses and providing for suspension and revocation thereof. Reeves v. State, 133 Cr.R. 248, 109 S.W.2d 1051.

That part of verdict, convicting accused for first time of driving automobile on public highway while intoxicated, which prohibited accused from driving automobile for 12 months, was unauthorized, in view of repeal of this article by Vernon's Rev.Civ. St. art. 6687a authorizing 12-month prohibition for first offense. Chaney v. State, 133 Cr.R. 517, 112 S.W.2d 464.

Vernon's Rev.Civ.St. art. 6687a repealed this article providing that jury shall add to their verdict the length of time that the defendant shall be prohibited from driving, not to exceed 2 years. Chaney v. State, 133 Cr.R. 517, 112 S.W.2d 464.

Art. 802b. Subsequent offense of driving while intoxicated; felony

Any person who has been convicted of the misdemeanor offense of driving or operating an automobile or other motor vehicle upon any public road or highway in this State or upon any street or alley within an incorporated city, town or village, while intoxicated or under the influence of intoxicating liquor, and who shall thereafter drive or operate an automobile or other motor vehicle upon any public road or highway in this State or upon any street or alley within the limits of

an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a felony and upon conviction be punished by confinement in the penitentiary for any term of years not less than one (1) nor more than five (5). Added, Acts 1941, 47th Leg., p. 819, ch. 507, § 2.

Effective date. See note under article 802.

Art. 802c. Punishment of intoxicated driver involved in accident or doing act otherwise felonious

Any person who drives or operates an automobile or any other motor vehicle upon any public road or highway in this State, or upon any street or alley or any other place within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, and while so driving and operating such automobile or other motor vehicle shall through accident or mistake do another act which if voluntarily done would be a felony, shall receive the punishment affixed to the felony actually committed. Added, Acts 1941, 47th Leg., p. 819, ch. 507, § 3.

Effective date. See note under article 802.

Art. 827a, sec. 5. Weight of load

Sec. 5. Except as otherwise provided by law, no commercial motor vehicle, truck-tractor, trailer or semi-trailer, nor combination of such vehicles, shall be operated over, on, or upon the public highways outside the limits of an incorporated city or town, the total gross weight of which exceeds that given by the following formula:

W equals C times (L plus 40), where

W equals total gross weight, including load and vehicle, in pounds;

C equals 700;

L equals the distance between the first and last axles of a vehicle or combination of vehicles, in feet.

Under the foregoing formula, the gross weight is ascertained by adding forty (40) to the distance in feet between the first and last axles of a vehicle or combination of vehicles and multiplying this sum by seven hundred (700). Provided, however, the gross weight shall never exceed thirty-eight thousand (38,000) pounds.

Provided, however, the gross weight permitted by the foregoing formula shall be subject to the following restrictions and limitations:

No such vehicle nor combination of vehicles shall have a greater weight than six hundred (600) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway and using high-pressure tires, and a greater weight than six hundred and fifty (650) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway and using low-pressure tires, and no wheel shall carry a load in excess of eight thousand (8,000) pounds on high-pressure tires and nine thousand (9,000) pounds on low-pressure tires, nor any axle a load in excess of sixteen thousand (16,000) pounds on high-pressure tires, and eighteen thousand (18,000) pounds on low-pressure tires. An axle load shall be defined as the total load on all wheels whose centers may be included between two parallel transverse vertical planes forty (40) inches apart. As amended Acts 1941, 47th Leg., p. 86, ch. 71, § 1.

Approved and effective March 24, 1941.

Section 3 of Acts 1941, 47th Leg., p. 86, ch. 71, read as follows:

"Nothing in this Act shall be construed as authorizing an increase in the size or dimensions of commercial motor vehicles as provided in the present law."

Sections 7-9 of the amendatory Act of 1941 read as follows:

"Sec. 7. If any section, subsection, clause, sentence or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and such section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

"Sec. 8. Providing that the enactment of this Act will in no way repeal or affect the provisions of House Bill No. 690, Chapter 349, page 832, of the General and Special Laws of the Regular Session of the Forty-fourth Legislature.

"Sec. 9. Nothing in this Act shall in any way alter, amend, repeal or modify any part of Chapter 41, Acts Second Called Session, Forty-first Legislature [Vernon's Ann.Civ.St. art. 6701a]."

Section 10 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 827a, sec. 5a. Applicant for registration to show weight and maximum load; license receipt; penalty for violation

Sec. 5a. Upon application for registration of any commercial motor vehicle, truck tractor, trailer or semi-trailer, the applicant shall deliver to the Tax Collector, or one of his duly authorized deputies, an affidavit, duly sworn to before an officer authorized to administer oaths, showing the weight of said vehicle, the maximum load to be transported thereon, and the total gross weight for which said vehicle is to be registered; which affidavit shall be kept on file by the Collector. The license receipt issued to the applicant shall also show said total gross weight for which said vehicle is registered. A copy of said receipt shall be carried at all times on any such vehicle while same is upon the public highway.

The copy of the registration license receipt above required shall be admissible in evidence in any cause in which the gross registered weight of such vehicle is an issue, and shall be prima facie evidence of the gross weight for which such vehicle is registered. Such copy of the registration license receipt shall be displayed to any officer authorized to enforce this Act, upon request by such officer.

The driver, owner, operator, or other person operating or driving such vehicle, failing to comply with this provision of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding Two Hundred (\$200.00) Dollars. As amended Acts 1941, 47th Leg., p. 144, ch. 110, § 12.

Approved and effective April 10, 1941.

Section 17 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Acts 1941, 47th Leg., p. 144, ch. 110, § 12, purported to amend "Section 5a, chapter 282, Acts 1931, 42nd Legislature, Regular Session," to read as set out in the text

above, whereas it was evidently the legislative intent to amend section 6 of Acts 1931, 42nd Leg., p. 507, ch. 282, which added section 5(a) to Acts 1929, 41st Leg., 2nd C.S., p. 72, ch. 42.

On the question of the validity of the amendment of 1941, see *Katz v. State*, 122 Cr.R. 231, 54 S.W.2d 130.

Art. 827a, sec. 5b. Repealed. Acts 1941, 47th Leg., p. 86, ch. 71, § 2.

Approved and effective March 24, 1941.

Art. 827a, sec. 6. Weighing loaded vehicles by inspectors

Sec. 6. Any license and weight inspector of the Department of Public Safety, any highway patrolman or any sheriff or his duly authorized deputy having reason to believe that the gross weight of a loaded vehicle is unlawful is authorized to weigh the same by means of portable or stationary scales furnished or established by the Department of Public Safety, or cause the same to be weighed by any public weigher, and to require that such vehicle be driven to the nearest available scales in the

direction of destination, for the purpose of weighing. In the event the gross weight of any such vehicle be found to exceed the maximum gross weight authorized by law, such license and weight inspector, highway patrolman, sheriff, or his duly authorized deputy shall demand and require the operator or owner thereof to unload such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum gross weight authorized by law. Provided, however, that if such load consists of livestock, perishable merchandise, or merchandise that may be damaged or destroyed by the weather, then such operator shall be permitted to proceed to the nearest practical unloading point in the direction of destination before discharging said excess cargo. The officers named herein are the only officers authorized to enforce the provisions of this Act. As amended Acts 1941, 47th Leg., p. 86, ch. 71, § 4.

Approved and effective March 24, 1941.

Art. 827a, sec. 8. Rate and speed of vehicles

Sec. 8. It shall be unlawful for any person to operate or drive any motor or other vehicle upon the public highways of Texas at a rate of speed in excess of sixty (60) miles an hour during the daytime, or to drive or operate a motor or other vehicle at a rate of speed in excess of fifty-five (55) miles per hour during the nighttime, or drive or operate a motor or other vehicle within the corporate limits of an incorporated city or town, or within or through any town or village not incorporated, at a greater rate of speed than thirty (30) miles per hour; provided, that it shall be unlawful to drive or operate upon said public highways a commercial motor vehicle, truck-tractor, trailer, or semitrailer as defined in this Act, at a rate of speed in excess of forty-five (45) miles per hour during the daytime, or to drive or operate said commercial motor vehicle, truck-tractor, trailer, or semitrailer at a rate of speed in excess of forty-five (45) miles per hour during the nighttime. Provided further, that it shall be unlawful to operate any motor vehicle engaged in this State in the business of transporting passengers for compensation or hire on any highway, road, or thoroughfare not privately owned between cities, towns, and villages at a rate of speed in excess of fifty-five (55) miles per hour.

Daytime as used in this Act shall mean a half hour before sunrise to a half hour after sunset, and nighttime shall mean at any other hour.

Provided further that no person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions then existing, having regard to the actual and potential hazards when approaching and crossing an intersection or a railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions; and speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

The State Highway Commission shall have the power and authority upon the basis of an engineering and traffic investigation to determine and fix the maximum, reasonable and prudent speed at any road or highway intersections, railway grade crossings, curves, hills, or upon any other part of a highway, less than the maximum hereinbefore fixed by this Act, taking into consideration the width and condition of the pavement and other circumstances on such portion of said highway as well

as the usual traffic thereon. That whenever the State Highway Commission shall determine and fix the rate of speed at any said point upon any highway at a less rate of speed than the maximum hereinbefore set forth in this Act and shall declare the maximum, reasonable and prudent speed limit thereat by proper order of the Commission entered on its minutes, such rate of speed shall become effective and operative at said point on said highways when appropriate signs giving notice thereof are erected under the order of the Commission at such intersection or portion of the highway.

That whenever the governing bodies of incorporated cities and towns in this State within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the maximum reasonable and prudent speed at any intersection or other portion of the highway, based upon the intersections, railway grade crossings, curves, hills, width and condition of pavement and other conditions on such highway, and the usual traffic thereon, is greater or less than the speed limits hereinbefore set forth, said governing bodies shall have the power and authority to determine and declare the maximum reasonable and prudent speed limit thereat, which shall be effective at such intersection or other place.

It shall be unlawful for any person to so operate or drive any motor or other vehicle upon the public highways or streets of this State so as to wilfully obstruct or impede the normal, reasonable and safe movement of traffic. Police officers are hereby authorized to enforce the foregoing provision by directions to drivers, and a wilful disobedience to this provision shall be in violation of law punishable as provided in this Act.

Every charge of a violation of any speed regulation provided for in this Act, also the summons or notice to appear in answer to such charge, shall specify the rate of speed at which the person so charged is alleged to have driven, also the speed limit applicable within the district or at the location shall be set out.

The provisions of this Act declaring speed limits shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of any accident. As amended, Acts 1941, 47th Leg., p. 817, ch. 506, § 1.

Approved and effective June 14, 1941.

This article was also amended by Acts 1941, 47th Leg., p. 115, ch. 90, § 1, which amendment, was repealed by section 4 of the amendatory Act of 1941, p. 817, ch. 506.

Section 2 of the amendatory Act of 1941 read as follows: "If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts

of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

Section 3 repealed all conflicting laws and parts of laws. Section 5 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 827a, sec. 9c. Penalty

Sec. 9c. (a) Any person, corporation, receiver or association who violates any provision of Section 5¹ of this Act (the Section fixing the gross weight of commercial motor vehicles) shall, upon conviction, be punished by a fine of not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200); for a second conviction within one year thereafter such person, corporation, receiver, or association shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200) or imprisonment in the county jail for not more than sixty (60) days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the second conviction such

person, corporation, receiver or association shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. It shall be the duty of the judge of the court to report forthwith to the Department of Public Safety any convictions obtained in his court under this Section and it shall be the duty of the Department of Public Safety to keep a record thereof.

(b) If any corporation is convicted for the violation of any provision of this Act and fails to pay the fine assessed, the district or county attorney in the county in which such conviction was had is hereby authorized to file suit in a court of competent jurisdiction against such corporation to collect such fine. Added Acts 1941, 47th Leg., p. 86, ch. 71, § 5.

¹ Article 827a, § 5.

Approved and effective March 24, 1941.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.

879f—5. Closed season for prairie chicken until 1946 [New].

879g—2a. Collared Peccary or Javelina in Webb, Starr and Zapata Counties [New].

879i. Eagles, open season for [New].

909a. Possession and storage of deer after closed season [New].

Art.

928b. Taking fish from water of public park under control of State Parks Board [New].

952I—11. Closed season on shrimp; possession; classification of fish; taking non game fish [New].

Art. 879a—4. Repealed. Acts 1941, 47th Leg., p. 397, ch. 231, § 7. Eff. May 21, 1941

Art. 879f—5. Closed season for prairie chicken until 1946

Section 1. It shall be unlawful to kill, take, or attempt to take or kill, or have in possession, any prairie chickens in this State until September 1, 1946.

Sec. 2. All laws or parts of laws, insofar as they conflict with any provision of this Act, be and the same are hereby repealed.

Sec. 3. Any person who violates any portion of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Fifty (\$50.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, and upon conviction shall automatically forfeit his right to hunt with a gun in this State for a period of five (5) years. Acts 1941, 47th Leg., p. 261, ch. 177.

Filed without the Governor's signature, April 26, 1941.

Effective May 7, 1941.

Section 4 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that it shall be unlawful to take, kill, or attempt to take or kill any prairie chickens in this State until September 1, 1946; providing a penalty; and declaring an emergency. Acts 1941, 47th Leg., p. 261, ch. 177.

Art. 879g—2a. Collared Peccary or Javelina in Webb, Starr and Zapata counties

Provided however, that it shall be lawful to take, capture, shoot, or kill Collared Peccary or Javelina in the counties of Webb, Starr, and Zapata, Texas, at any time, and an open season for Collared Peccary or Javelina in such counties is hereby declared. Provided

further, that it shall be unlawful in such counties to have or take any Collared Peccary or Javelina, or any part of the same, in possession for the purpose of barter or sale, or to sell or to offer for sale any Collared Peccary or Javelina, or any part of same, and any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50), and each Collared Peccary or Javelina, or part thereof, taken or possessed or offered for sale or possessed for the purpose of sale, or sold, in violation of this Act shall constitute a separate offense. Acts 1939, 46th Leg., Spec.L., p. 831, § 1a, added Acts 1941, 47th Leg., p. 445, ch. 281, § 1.

Filed without the Governor's signature,
May 12, 1941.

Effective May 22, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 879i. Eagles, open season for

That from and after the passage of this Act it shall be lawful for any person to hunt, trap, shoot, or kill any Golden Eagle or Mexican Brown Eagle in the State of Texas. Acts 1941, 47th Leg., p. 429, ch. 259, § 1.

Filed without the Governor's signature,
May 9, 1941.

Effective May 21, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act declaring an open season on killing the Golden Eagle or Mexican Brown Eagle in the State of Texas; and declaring an emergency. Acts 1941, 47th Leg., p. 429, ch. 259.

Art. 880. Hunting with dogs

It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting of or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs and who permits or allows such dog or dogs to run, trail, or pursue any deer at any time shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than Twenty-five Dollars (\$25), and not more than Two Hundred Dollars (\$200); provided however, that this Article shall not apply to the Counties of Brazoria, Matagorda, Wharton, Jackson, and Fort Bend. And, provided further, that it shall be lawful to use one dog for the purpose of trailing a wounded deer in the Counties of Kimble, Sutton, Edwards, Medina, Dimmit, Uvalde, Zavala, Kerr, Mason, Gillespie, Tom Green, Shackelford, San Saba, Llano, Blanco, Burnet, Bandera, Comal, Real, Kendall, Wharton, Schleicher, Crockett, Guadalupe, Jackson, Wilson, Concho, Karnes, Jones, Atascosa, Baylor, Bexar, Brewster, Caldwell, Denton, DeWitt, Frio, Gonzales, Haskell, Hays, Hidalgo, Jack, Kaufman, and Cameron. As amended, Acts 1941, 47th Leg., p. 1320, ch. 593, § 1.

Filed without the Governor's signature,
July 3, 1941.

Effective July 5, 1941.

Section 2 of the amendatory Act of 1941

declared an emergency and provided that the Act should take effect from and after its passage.

Art. 909a. Possession and storage of deer after closed season

Section 1. Any deer or part of same lawfully killed or entered into this State may be possessed from the time that same was lawfully killed or entered into this State and until the following June 5th.

Sec. 2. Any deer or part of same lawfully killed or lawfully entered into this State may be placed on storage in accordance with the provisions of Article 909, Penal Code, 1925. If any deer or part of same remains in a public cold storage plant on June 5th of any year, it shall be the duty of the operators of such plant to notify an agent of the Game, Fish and Oyster Commission of the State of Texas, and said agent of the Game, Fish and Oyster Commission shall remove said deer or part of same from such storage plant and deliver same to a charitable institution or an indigent person, take receipt for same, and all such receipts shall be filed in the Austin office of the Game, Fish and Oyster Commission. No damage shall be recovered by the owner of any deer or part of same thus removed from a public cold storage plant and disposed of in accordance with the provisions of this Act. Provided the terms of this Act shall not apply to the parts of any deer which is made up into deer sausage, jerk, or that which is cut and wrapped, or to such meat stored in any privately owned or leased locker located in a cold storage plant.

Sec. 3. Any person who possesses any carcass of a deer or any part of same during a period from June 5th to the following open season for taking deer in this State, unless said person can give evidence that said carcass of deer or part of same was lawfully entered into this State; or any operator of a cold storage plant who accepts any carcass of deer for storage or part of same at any time except during the open season for taking same in this State, and for a period of three days immediately following such open season, unless said carcass of deer or part of same is accompanied by a certificate issued by the Game, Fish and Oyster Commission of the State of Texas, showing the same deer or part of same was lawfully entered into this State at another time; or any operator of a storage plant who fails to notify an authorized agent of the Game, Fish and Oyster Commission of the presence in his plant of any carcass of deer or part of same that has remained in said plant until June 5th of any year shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1941, 47th Leg., p. 700, ch. 435.

Approved May 27, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 repealed all conflicting laws and parts of laws.

Section 5 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act regulating the possession of the carcass of deer or part of same and the storage of same; repealing conflicting laws; providing a suitable penalty for violation of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 700, ch. 435.

Art. 923qa. License to trap fur bearing animals or traffic in pelts required—definitions

Acts 1941, 47th Leg., Reg.Sess., p. 51, ch. 34, Pen.Code, art. 978j note, repeals all special and local laws regulating the tak-

ing, possession, or sale of fur-bearing animals in so far as they apply to Panola County.

Art. 923qa—6. Animals designated as fur bearing; application to certain counties

Section 1. All the fur-bearing animals of this State are hereby declared to be the property of the people of this State. For the purposes of this Act, wild beaver, wild otter, wild mink, wild ringtail cat, wild badger, wild polecat or skunk, wild raccoon, wild muskrat, wild opossum, wild fox, and wild civet cat are hereby declared to be fur-bearing animals.

Sec. 2. It shall be unlawful for any person to kill, take, or have in his possession for barter or sale, after the passage of this Act, any wild beaver, wild otter, or wild fox, or the pelts thereof. Providing that this Section shall apply to Nacogdoches, Walker, San Jacinto, Shelby, Rusk, and Jefferson Counties.

Sec. 3. Every person violating any provision of this Act shall, upon conviction, be punished by a fine of not less than Ten Dollars (\$10), nor more than One Hundred Dollars (\$100). As amended Acts 1941, 47th Leg., p. 410, ch. 239, § 1.

Filed without the Governor's signature,
May 12, 1941.

Effective May 21, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 923rr. Trapping, killing or possession of muskrats without consent of land owner or lessee; punishment for violation

Section 1. It shall be unlawful for any person, at any time, to set a trap for or trap or kill any muskrat upon any land of another, or be in possession of a muskrat or the hide of such animal taken from such land, without the consent of the owner or lessee of such land to trap thereon; provided that such person may, in relief against this provision, show a rightful, legal possession of such muskrat or the hide of such animal.

Sec. 2. Every person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars. As amended Acts 1941, 47th Leg., p. 173, ch. 125.

Filed without the Governor's signature
April 16, 1941.

Effective April 28, 1941.

Section 3 as contained in the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 923vv. Penalty

Trapping, killing or possessing muskrats without consent of landowner or lessee, punishment, see article 923rr, § 2.

Art. 928b. Taking fish from waters of public park under control of State Parks Board

Whoever shall take, catch, ensnare, or trap any fish by any means whatsoever in any waters which are within the confines of any public park under the control of the Texas State Parks Board, without the consent of the keeper, caretaker, or superintendent of said public park, shall be fined not exceeding One Hundred Dollars (\$100). Any peace officer is authorized to arrest without warrant any person found committing a violation of any provision of this Act. Acts 1941, 47th Leg., p. 1410, ch. 642, § 1.

Filed without the Governor's signature,
July 25, 1941.

Effective 90 days after July 3, 1941; date of adjournment.

Section 2 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An Act providing that it shall be unlawful for any person to take, catch, ensnare,

or trap any fish by any means whatsoever in any waters of any public park under the control of the Texas State Parks Board, without the consent of the keeper, caretaker, or superintendent of said park; providing a penalty; and authorizing any peace officer to arrest without warrant for a violation of any provision of this Act; and declaring an emergency. Acts 1941, 47th Leg., p. 1410, ch. 642.

Art. 941—1. Repealed. Acts 1941, 47th Leg., p. 63, ch. 48.

Article was derived from Acts 1939, 46th Leg., Spec.L., p. 823, and related to set, drag, seine or net for fish or shrimp in Matagorda Bay east of Colorado River.

Filed without Governor's signature, March 14, 1941.

Effective March 17, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 952—7. Regulating fishing in Dimmit and other counties

Section 1. Any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad, or gar during the months of July, August, September, and October in any of the fresh water of Bosque, Dimmit, Zavala, Medina, Uvalde, DeWitt, Brown, Hamilton, Coryell, Gonzales, Lamar, Bell, Collin, Grayson, Gillespie, Kendall, Menard, Kimble, Mills, Jefferson, Blanco, Llano, Mason, McCulloch, San Saba, Cooke, Denton, Orange, Mitchell, Fisher, Nolan, Chambers, Travis, Hardin, Lampasas, Fannin, Burnet, Williamson, and Parker Counties with a seine or net, the meshes of which shall not be less than one inch square, and any and all persons shall be permitted to take or catch suckers, buffalo, carp, shad, or gar with wire, rope, or gig at any time of the year, provided however, that any bass, crappie or white perch, catfish, perch, bream, or trout caught by the above-mentioned methods shall be immediately released in the waters from which they are caught. As amended Acts 1941, 47th Leg., p. 392, ch. 224, § 1.

Filed without the Governor's signature, May 12, 1941.

Effective May 17, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 952—11. Closed season on shrimp; possession; classification of fish; taking nongame fish

Sec. 1. It shall be unlawful to catch or have in possession any shrimp from the inland salt waters of this State during the period of time from and between the 15th day of July and the 31st day of August and during the period of time from and between the 15th day of December and the 1st day of March of any year.

It shall also be unlawful to use, operate, or possess any shrimp trawl in or on any of the salt waters of this State except the Gulf of Mexico during the period of time from and between the 15th day of July and the 31st day of August and during the period of time from and between the 15th day of December and the 1st day of March of any year, except as hereinafter provided in this Act.

Provided it shall be lawful at all times to possess shrimp lawfully taken from the waters of this State or imported from other states, and it shall be lawful for any person at any time to take shrimp for bait from any of the tidal waters of this State with a minnow seine of not more than twenty (20) feet in length, with a cast net or with a shrimp trawl, provided that such shrimp trawl shall be not more than ten (10) feet in width at the mouth and not more than twenty-five (25) feet in length, and provided that any and all persons who offer such shrimp for sale shall comply with the provisions of the laws of this State requiring a license for such sale.

Provided, it shall not be unlawful to have a shrimp trawl on board any vessel licensed to use or operate such a trawl during the period of time from and between the 15th day of July and the 31st day of August

and during the period of time from and between the 15th day of December and the 1st day of March of any year when such vessel is at port or in a channel while en route to or from open waters.

Repeal

Sec. 2. Providing that Section 1-D of Article 941 of the Penal Code is hereby repealed and that all laws or parts of laws in so far as they may conflict with the provisions of this Act be, and the same are hereby repealed.

Classification of salt water fish; permits to take nongame fish

Sec. 3. It shall be the duty of the Game, Fish and Oyster Commission to make continued investigations and classify and reclassify the salt-water fish of this State into two divisions, (1) the game fish, and (2) the nongame fish.

The game fish shall include all fish which strike or bite at a hook baited with natural or artificial lures and which species is desirable to be encouraged and repropagated because of its value for sport and recreation.

The nongame fish shall include those having no sporting value, the predators, bony or rough-fleshed species, or any species of fish whose numbers should be controlled in order to protect and encourage the other game fish of this State.

In order to control such nongame marine species and to permit their utilization and when it has been found that the taking of such nongame species will not adversely affect the conservation of game species, it shall be the duty of the Game, Fish and Oyster Commission to issue permits for the use of any net or device for the taking of such nongame species under the terms, conditions, and stipulations herein provided.

(a) Permits shall be granted only to citizens of the United States who have continuously resided in the State of Texas for a period of at least six (6) months prior to their application for such permit, and who have not been convicted of violating any of the fishing regulations of this State for a period of two (2) years. For such permit the applicant shall pay to the Game, Fish and Oyster Commission the sum of Five Dollars (\$5), which it shall be the duty of the said Commission to deposit in the State Treasury to the credit of the Fish and Oyster Fund. A permit issued hereunder shall be valid for one year from date of issuance unless earlier revoked or suspended in accordance with the provisions of this Act.

(b) It shall be unlawful for the holder of a permit issued hereunder to operate any net or device that is not now legal in any of the tidal waters of this State in which a trammel net, set net, or gill net is now prohibited by law. And it shall be unlawful to operate a device permitted under the terms of this Act until such device has been inspected, approved, and tagged, and while in operation bears a metal tag identifying said device, issued by said Commission.

(c) It shall be unlawful to use a device otherwise prohibited by the laws of this State but permitted under the terms of this Act for the taking and possession of any game fish or any other species of salt-water fish, excepting those specifically named in the permit authorizing the use of said device; or to operate or permit the operation of such a device in a manner that will or does needlessly or carelessly injure marine products other than those permitted to be taken in the especially authorized net or device.

Seizure of devices used unlawfully

Sec. 4. Whenever an agent of the Game, Fish and Oyster Commission finds that any device for which a permit has been issued under the laws of this State is being used contrary to any provisions of this Act, it shall be the duty of said officer to immediately seize such device and hold same until after the trial of this defendant, and no suit shall be maintained therefor. Pending the trial of the defendant, it shall be unlawful for said defendant to operate any device such as is permitted under the provisions of this Act in any of the tidal waters of this State.

Violations

Sec. 5. Any person violating any provision of this Act, or any of the conditions of a permit issued hereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10), nor more than Two Hundred Dollars (\$200), and shall automatically forfeit all privileges granted under this Act. Acts 1941, 47th Leg., p. 525, ch. 322.

Filed without the Governor's signature, May 24, 1941.

Effective May 26, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act for the purpose of better conserving the marine fish resources of this State by placing a closed season on shrimp in the inland salt water of this State during the period of time from and between the 15th day of July and the 31st day of August and during the period of time from and between the 15th day of December and the 1st day of March of any year;

making it lawful to possess shrimp taken from waters of this State or imported from other states and making provisions for taking of such shrimp for bait in the tidal waters of this State and requiring a license for sale of same; making it the duty of the Game, Fish and Oyster Commission to classify and reclassify salt-water fish and authorize the taking of nongame species subject to certain limitations and license; providing a penalty for violations of this Act; providing for the seizing of tackle for evidence; repealing Section 1-D of Article 941 of the Penal Code and all laws conflicting herewith; and declaring an emergency. Acts 1941, 47th Leg., p. 525, ch. 322.

Art. 978j. Local game and fish laws

For fish and game laws applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, Art. 978j.

TITLE 14—TRADE AND COMMERCE

CHAPTER FIVE—WEIGHTS AND MEASURES

Art. 1037. False weights and measures; definitions

Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the Commissioner, or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures within one year, or shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty Dollars (\$20) nor more than One Hundred Dollars (\$100), upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200).

Section A. The word "person" as used in this Chapter shall be construed to include any individual and all officers, directors, managers, employees, and other agents of all corporations, companies, partnerships, societies and associations, and such is the legislative intent.

The words "weights, measures or (and) weighing or (and) measuring devices" as used in this Chapter, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

The words "sell" or "sale" as used in this Chapter, shall be construed to include barter and exchange.

The term "false weight or measure, or (and) weighing or measuring device" as used in this Chapter, shall be construed to mean any weight or measure or weighing or measuring device which does not conform as closely as practicable to the official standards, which is not accurate, which is of such construction that it is not reasonably permanent in its adjustment or will not correctly repeat its indications, which facilitates the perpetration of fraud, or which does not conform to the requirements of the Statutes of this State and to the specifications and tolerances promulgated by the Commissioner under authority of Article 5714, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, as amended.

Section B. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than

by liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count. Provided, however, that liquid commodities may be sold by weight if there exists a general consumer usage to express the quantity of such commodities by weight and such expression gives accurate information as to the quantity thereof; and that nothing in this Section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel or by other methods provided for by State or Federal Law; or of berries and small fruits in boxes as provided for in the provisions of other Articles of the Statutes; or of vegetables or fruits usually sold by the head or bunch in this manner. Provided further, that nothing in this Section shall be construed to apply to commodities put up in original packages.

For the purposes of this Section the term "original package" shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "original package" shall be construed to include both the wholesale and the retail package.

For the purposes of this Section the term "commodities not liquid" shall be construed to include goods, wares, and merchandise which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

Section C. (1) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless (a) the net quantity of contents, in terms of weight, measure, or numerical count, and (b) the name and place of business of the manufacturer, packer, or distributor shall be plainly and conspicuously marked on the outside of the package. Provided, however, that under Clause (a) of this Section reasonable variations or tolerances shall be permitted, and exemptions as to small packages shall be made; and that under Clause (b) of this Section exemptions as to packages sold on the premises where packed shall be made. And provided further, that this Section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other Articles of the Statutes, or to bales of cotton; and that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including the reasonable variations or tolerances and the exemptions prescribed herein, shall be made by the Commissioner.

(2) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this Section. For the effectuation of the purposes of this Section the Commissioner is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a standard of fill of container, which in his best judgment is reasonable with respect to the physical characteristics of the commodity, the size, shape, and physical characteristics of the container, prevailing methods of handling and transportation of packages, and generally accepted good commercial practice in filling methods; provided, however, that reasonable variations or tolerances shall be permitted, and that these reasonable

variations or tolerances shall be established by regulations made by the Commissioner.

(3) The words "in package form" as used in this Chapter, shall be construed to include a commodity in package, carton, case, can, box, bag, barrel, bottle, phial, or on a spool or similar holder, or in a container or band, or in a roll, ball, coil, skein, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or when put up prior to the order of the commodity, by the vendor, which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "in package form" shall be construed to include both the wholesale and the retail package. Provided, however, that a box or carton used for shipping purposes containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure of the contents thereof, nor the name and place of business of the manufacturer, packer or distributor. And provided further, that the words "in package form" shall not be construed to include paper stationery in tablet form.

Section D. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, any milk or cream in bottles or other containers of any capacity other than those provided for measures of capacity for liquid in Article 5732, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, to wit, the gallon, a multiple of the gallon, one-half gallon, quart, pint, one-half pint, and gill.

Section E. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, except for immediate consumption on the premises, any cheese, meat, or meat food products otherwise than by standard net weight. Provided, however, that any cheese, meat, or meat food products, in package form, shall comply with the requirements of Section C of this Article. For the purposes of this Section the following shall be deemed to be meat and meat food products: All fresh, cured, or salt meats, fish, poultry, sausage, chile, head cheese, souse meat, loaf meat, boneless meat, shredded meat, Hamburger meat, or any other manufactured, prepared, or processed meat or meat food products. This Section shall be construed to require that all poultry sold by live weight shall be weighed alive at the time of sale, and that any poultry dressed or killed prior to time of sale, whether cooked or uncooked, shall be sold by net weight at time of sale and not by live weight or by the piece.

The word "poultry" as used in this Section shall be construed to include turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowls.

Section F. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity, and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this Chapter, it shall be understood and construed to mean the net weight of the commodity. Provided, however, that this Section shall not be construed to apply to bales of cotton.

Section G. It shall be unlawful for any person to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual or prospective customer. Whenever any price sign, tag, card, poster, or other advertisement displaying the price of any commodity or thing, includes a whole number and a frac-

tion, the figures in the fraction shall be of proportionate size and legibility with those of the whole number.

Section H. There shall be no violation under this Act for any discrepancy between actual weight or volume at the time of sale to the consumer and the weight marked on the container or between the fill of container and the capacity of the container if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste or to causes beyond the control of the seller acting in good faith.

Section I. Any person who shall violate any provisions of this Act, or any of the reasonable rules and regulations promulgated hereunder, for which a specific penalty has not been provided, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty Dollars (\$20) nor more than One Hundred Dollars (\$100) upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). As amended, Acts 1941, 47th Leg., p. 1374, ch. 624, § 1.

Approved July 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 read as follows: "If any Article, section, provision, subdivision, or part of this Act should be held invalid for any reason, it is the legislative intent that the remainder of the Act shall remain in full force and effect."

Section 3 purported to repeal Acts 1923, 38th Leg., 3rd C.S., ch. 53, p. 121, and all conflicting laws and parts of laws. Reference to "3rd C.S." should probably be "2nd C.S." as there was no chapter 53 in the Second Called Session.

Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 1037a. See Article 1037 as amended

The provisions of Article 1037a, as amended by Acts 1941, 47th Leg., p. 1374, ch. 624, are set out as part of Article 1037.

CHAPTER ELEVEN—GASOLINE AND PETROLEUM PRODUCTS

Art.

1106a. Lubricating oils and greases; sale out of falsely labeled containers, pumps, etc. [New].

Art. 1106a. Lubricating oils and greases; sale out of falsely labeled containers, pumps, etc.

Section 1. The term "person" as used in this Act shall include every natural person, firm, copartnership, association, or corporation and if any firm, copartnership, association, or corporation violates any of the provisions of this Act, every director, officer, agent, employee, or member participating in, aiding, or authorizing the act or acts constituting a violation of this Act shall be guilty of violating this Act, and shall be subject to the punishment herein provided.

Sec. 2. When any container, can, tank, pump, or other distributing device containing lubricating oils, greases, and similar products, bearing the name, trade-mark, symbol, sign, or other distinguishing mark of the lubricating oils, greases, or similar products originally placed in said container, can, tank, pump, or other distributing device by the original manufacturer, processor, or distributor, whose name, trade-mark, symbol, sign, or other distinguishing mark appears on such container, can, tank, pump, or other distributing device, shall be opened and any part of the contents thereof removed, it shall be unlawful for any person, except such original manufacturer, processor, or distributor, to refill,

in whole or in part, or to re-use any such container, can, tank, pump, or other distributing device for the purpose of selling or offering for sale any lubricating oils, greases, or other similar products.

Sec. 3. When any person has in his possession any container, can, tank, pump, or other distributing device, which has been opened and refilled, as described in the above Section, such possession shall be prima facie evidence of possession thereof by such person for the purpose of sale.

Sec. 4. It shall be unlawful for any person, firm, or corporation, to disguise or camouflage his or their own equipment by imitating the design, symbol, trade name, or the equipment, under which recognized brands of lubricating oils, greases, and similar products are generally marketed.

Sec. 5. No person shall expose or offer for sale or sell under any trade-mark, trade name, or name, or other distinguishing mark any lubricating oils, greases, or other similar products, other than those manufactured or distributed by the manufacturer or distributor marketing such products under such trade name, trade-mark or name, or other distinguishing mark.

Sec. 6. No person shall aid or assist any other person in violating any of the provisions of this Act by depositing or delivering into any can, tank, pump, receptacle, or other container any lubricating oils, greases, or similar products, other than those intended to be stored therein, as indicated by the name of the manufacturer or distributor, or the trade-mark, trade name, name, or other distinguishing mark of the product displayed on the container itself or on the pump, or other distributing device used in connection therewith, or shall by any other means aid or assist another in the violation of any of the provisions of this Act.

Sec. 7. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

Sec. 8. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid. Acts 1941, 47th Leg., p. 1317, ch. 591.

Filed without the Governor's signature, July 3, 1941.

Effective July 5, 1941.

Section 9 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining the word "person" and providing that every director, officer, agent, employee, or member of any firm, copartnership, association, or corporation participating in, aiding, or authorizing any violation of this Act shall be subject to the punishment provided herein; making it unlawful for any person, with exceptions, to open and refill or re-use the con-

tainer, can, tank, pump, or other distributing device of any manufacturer, processor, or distributor, for the purpose of offering for sale or selling lubricating oils, greases, and similar products therefrom when said container, can, tank, pump, or distributing device bears the trade-mark, symbol, sign, or other distinguishing mark of said manufacturer, processor, or distributor, or of his products; providing that the possession of any refilled container, can, tank, pump, or distributing device shall be prima facie evidence of possession thereof for the purpose of sale; making it unlawful to imitate the design, symbol, or trade name of recognized brands of lubricating oils, greases, or similar products or to expose

for sale or sell any such products under any trade-mark, trade name, or other distinguishing mark, other than those of the manufacturer, processor, or distributor of such products, or to aid or assist any person in the violation of the Act; prescribing penalties; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 1317, ch. 591.

CHAPTER ELEVEN-A—STORES AND MERCANTILE ESTABLISHMENTS

Art. 1111d. Operating stores or mercantile establishments without license unlawful

License fees

Sec. 5. Every person, agent, receiver, trustee, firm, corporation, association, or copartnership opening, establishing, operating, or maintaining one or more stores or mercantile establishments within this State, under the same general management, or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating, or maintaining such stores or mercantile establishments. The license fee herein prescribed shall be paid annually and shall be in addition to the filing fee prescribed in Sections 2 and 4 of this Act. Provided that the terms, "store, stores, mercantile establishment or mercantile establishments" wherever used in this Act shall not include: wholesale and/or retail lumber and building material businesses engaged exclusively in the sale of lumber and building material; and/or oil and gas well supplies and equipment dealers; and any place of business commonly known as a gasoline filling station, service station, or gasoline bulk station or plant, provided as much as seventy-five (75) per cent of the gross proceeds of the business done thereat is derived from the selling, storing, or distributing of petroleum products; or any business now paying an occupation tax measured by gross receipts; or any place or places of business used as bona fide wholesale or retail distributing points by manufacturing concerns for distribution of products of their own manufacture only; or any place or places of business used by bona fide processors of dairy products for the exclusive sale at retail of such products; or any place or places of business commonly known as Religious Book Stores, operated for the purposes of selling Religious Publications of any nature, including Bibles, Song Books, Books upon Religious Subjects, Church Offering Envelopes, Church, Sunday School and Training Union Supplies.

The license fees herein prescribed shall be as follows:

1. Upon one (1) store the license fee shall be One Dollar (\$1);
2. Upon each additional store in excess of one (1) but not to exceed two (2), the license fee shall be Six Dollars (\$6);
3. Upon each additional store in excess of two (2) but not to exceed five (5), the license fee shall be Twenty-five Dollars (\$25);
4. Upon each additional store in excess of five (5) but not to exceed ten (10) the license fee shall be Fifty Dollars (\$50);
5. Upon each additional store in excess of ten (10) but not to exceed twenty (20), the license fee shall be One Hundred and Fifty Dollars (\$150);
6. Upon each additional store in excess of twenty (20) but not to exceed thirty-five (35), the license fee shall be Two Hundred and Fifty Dollars (\$250);
7. Upon each additional store in excess of Thirty-five (35) but not to exceed fifty (50), the license fee shall be Five Hundred Dollars (\$500);

8. Upon each additional store in excess of fifty (50) the license fee shall be Seven Hundred and Fifty Dollars (\$750);

Such fees are for the period of twelve (12) months, and upon the issuance of any license after the first day of January of any one year, there shall be collected such fractional part of the license hereinabove fixed as the remaining months in the calendar year (including the month in which such license is issued) bears to the twelve-month period. As amended Acts 1941, 47th Leg., p. 269, ch. 184, Art. XIX, § 1:

Approved and effective May 1, 1941.

Section 2 of Article XIX of the amendatory Act of 1941, cited to the text, read as follows: "The passage of this Act shall not change, alter, or modify the liability of any person, agent, receiver, trustee, firm, corporation, association, or co-partnership for the payment of license fees, including the interest and penalty due thereon, that are now due and owing to the State of Texas, and all sums due as

license fees, taxes, interest, or penalties shall continue to be fixed and binding obligations and such shall be and are unimpaired by this Article."

Section 3 provided that the taxes levied by this article shall be allocated as now provided by law for such taxes.

Utilities paying occupation tax not required to pay license fee, see Vernon's Rev.Civ.St., art. 7060.

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Art.

1137i—1. Sale of merchandise made by convicts or prisoners prohibited; exceptions [New].

1137k. Tickets, sale at price in excess of purchase price without license prohibited; license [New].

1137l. Secondhand watches, sale or exchange of; tag to be attached [New].

Art.

1137l—1. Invoice covering secondhand watch; contents; keeping on file [New].

1137l—2. Advertising or displaying secondhand watches [New].

1137l—3. Watch deemed secondhand when [New].

1137l—4. Violations; punishment [New].

1137l—5. Application of act [New].

1137l—6. Partial invalidity [New].

Art. 1137i. Repealed. Acts 1941, 47th Leg., p. 107, ch. 86. Effective March 27, 1941.

Art. 1137i—1. Sale of merchandise made by convicts or prisoners prohibited; exceptions

Section 1. It shall be unlawful for any person, firm, partnership, association, or corporation to sell or offer for sale within the State of Texas any goods, wares, or merchandise manufactured wholly or in part by convicts or prisoners in penal or reformatory institutions, except convicts or prisoners on parole or probation, and provided further that nothing in this Section shall be construed to forbid or prohibit the sale of such goods produced or manufactured in the prison institutions of this State to the State, or to any political subdivision thereof, or to any public institution owned or managed and controlled by the State or any subdivision thereof.

Sec. 2. Any person, firm, partnership, association, or corporation which shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) for the first offense, and not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) for each subsequent offense. Acts 1941, 47th Leg., p. 107, ch. 86.

Approved and effective March 27, 1941.

Section 2a of the Act of 1941 repealed Article 1137i.

Section 3 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that it shall be unlawful for any person, firm, partnership, association, or corporation to sell or offer for sale within the State of Texas any goods, wares, or merchandise manufactured wholly or in part by convicts or prisoners in penal and reformatory institutions, except

convicts or prisoners on parole or probation; providing exemptions and penalties for the violation hereof; repealing the provisions of Chapter 85, Acts of the Forty-fourth Legislature, Regular Session; and declaring an emergency. Acts 1941, 47th Leg., p. 107, ch. 86.

Art. 1137k. Tickets, sale at price in excess of purchase price without license prohibited; license

Section 1. Every person who sells, or offers to sell, any ticket or tickets to any sports event, amusement, or entertainment in the State of Texas for which an admission charge is made, in excess of the price for said ticket or tickets as printed thereon, shall be required, before being authorized to do so, to procure a license to engage in such activity on application therefor to the Comptroller of Public Accounts of the State of Texas. Such application shall be in writing on forms prescribed by said Comptroller of Public Accounts and shall be verified by the applicant. The application shall state the name, post office address, residence, and citizenship of the applicant, and contain such other information as shall be required by the Comptroller of Public Accounts. Such application shall be examined by the Comptroller of Public Accounts and if he finds that it complies with the law and that the applicant is entitled to a license, he shall issue such license and deliver same to the applicant upon the payment by the applicant of an annual license fee of Two Hundred and Fifty Dollars (\$250). Such license shall run for a period of one year from the date of its issuance.

Sec. 2. The Comptroller of Public Accounts shall not be authorized to issue any license required by this Act to any firm, partnership, association, or corporation in the name of such firm, partnership, association, or corporation; such license may be issued only in the individual name of any officer, member, agent, servant, or employee of any firm, partnership, association, or corporation which officer, member, agent, servant, or employee may in any manner sell, or offer to sell, any ticket or tickets to any sports event, entertainment or amusement in the State of Texas for which an admission charge is made, in excess of the price for said ticket as printed thereon. An individual application and payment of the license fee as required in Section 1 of this Act shall be required of each officer, member, agent, servant, or employee of any firm, partnership, association, or corporation, which shall, for and on behalf of, or as agent for, such firm, partnership, association, or corporation, engage in the activities regulated by this Act.

Sec. 3. All license fees collected from the issuance of licenses required herein shall be paid into the General Fund of the State of Texas.

Sec. 4. Whoever shall sell, or offer for sale, either as an individual or as an officer, member, agent, servant, or employee of any firm, partnership, association, or corporation, any ticket or tickets to any sports event, amusement or entertainment in the State of Texas for which an admission charge is made, in excess of the price for said ticket as printed thereon, without first having procured a license therefor as required by this Act, shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or be imprisoned in the county jail not to exceed one year or both. Each sale or attempt to sell any ticket or tickets without such license shall be a separate offense.

Sec. 5. If any section or provision of this Act shall be held invalid for any reason, the remainder of this Act shall not be in anywise affected. Acts 1941, 47th Leg., p. 490, ch. 307.

Approved and effective May 20, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act making it unlawful to sell tickets to any sports event, amusement, or entertainment in Texas for which an admission charge is made, in excess of the purchase price of the ticket appearing thereon, without having procured a license

therefor from the Comptroller of Public Accounts of the State of Texas; prohibiting the granting of any such license to any firm, partnership, association, or corporation in the name of such; providing the procedure for the securing of a license and a license fee therefor; providing for deposit of said fees into State General Fund; prescribing penalties; and declaring an emergency. Acts 1941, 47th Leg., p. 490, ch. 307.

1137L. Secondhand watches, sale or exchange of; tag to be attached

Any person or persons, firm or firms, partnership or partnerships, association or associations, corporation or corporations, engaged in the business of buying or selling watches, or any agent or servant thereof, who may sell or exchange, or offer for sale or exchange, expose for sale or exchange, possess with the intent to sell or exchange, or display with the intent to sell or exchange any secondhand watch, shall affix and keep affixed to the same a tag with the word "secondhand" clearly and legibly written or printed thereon, and the said tag shall be so placed that the word "secondhand" shall be in plain sight at all times. Acts 1941, 47th Leg., p. 518, ch. 314, § 1.

Filed without the Governor's signature, May 27, 1941.

Effective May 26, 1941.

Section 8 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act defining and regulating the sale and/or resale of used and/or secondhand watches in the State of Texas;

defining terms used therein; specifying acts constituting offenses and providing penalties therefor; exempting pawnbrokers' auction sales of unredeemed pledges from the provisions of the Act; providing that if any provisions of this Act shall be held unconstitutional or invalid, the remainder shall not be affected thereby; and declaring an emergency. Acts 1941, 47th Leg., p. 518, ch. 314.

Art. 1137L—1. Invoice covering secondhand watch; contents; keeping on file

Any person or persons, firm or firms, partnership or partnerships, association or associations, corporation or corporations, engaged in the business of buying or selling watches, or any agent or servant thereof, who may sell a secondhand watch or in any other way pass title thereto shall deliver to the vendee a written invoice bearing the words "secondhand watch" in bold letters, larger than any of the other written matter upon said invoice. Said invoice shall further set forth the name and address of the vendor, the name and address of the vendee, the date of the sale, the name of the watch or its maker, and the serial numbers, if any, and any other distinguishing numbers or identification marks upon its case and movement. If the serial numbers or other distinguishing numbers or identification marks shall have been erased, defaced, removed, altered, or covered, said invoice shall so state. The vendor shall keep on file a duplicate of said invoice for at least five (5) years from the date of the sale thereof, which shall be open to inspection during all business hours by the County or the District Attor-

ney of the county in which the vendor is engaged in business, or his duly authorized representative. Acts 1941, 47th Leg., p. 518, ch. 314, § 2.

Filed without the Governor's signature,
May 27, 1941.

Effective May 26, 1941.

Art. 1137—2. Advertising or displaying secondhand watches

Any person or persons, firm or firms, partnership or partnerships, association or associations, corporation or corporations, or any agent or servant thereof, who may advertise or display in any manner a secondhand watch for sale or exchange shall state clearly in such advertisement or display that said watch is a secondhand watch. Acts 1941, 47th Leg., p. 518, ch. 314, § 3.

Filed without the Governor's signature,
May 27, 1941.

Effective May 26, 1941.

Art. 1137—3. Watch deemed secondhand when

A watch shall be deemed to be secondhand if:

(a) It as a whole, or the case thereof, or the movement thereof has been previously sold to or acquired by any person who bought or acquired the same for his use or the use of another, but not for resale; provided however, that a watch which has been so sold or acquired and is thereafter, within one year from the date of original sale, returned either through an exchange or for credit to the original individual, firm, partnership, association, or corporation who sold or passed title to such watch, shall not be deemed to be a secondhand watch for the purposes of this Act, if such vendor shall keep a written or printed record setting forth the name of the purchaser thereof, the date of the sale or transfer thereof, and the serial number, if any, on the case and the movement, and any other distinguishing numbers or identification marks, which said record shall be kept for at least five (5) years from the date of such sale or transfer and shall be opened for inspection during all business hours by the County Attorney or the District Attorney of the county in which such vendor is engaged in business, or his duly authorized representative; or

(b) Its case serial numbers or movement numbers or other distinguishing numbers or identification marks shall be erased, defaced, removed, altered, or covered; or

(c) If its movement is more than one year old and has been repaired by any person or persons, including the vendor, notwithstanding that it may have been returned either through an exchange or for credit to the said original vendor. Cleaning and oiling a watch movement or recasing the movement in a new case shall not be deemed a watch repair for the purposes of this section. Acts 1941, 47th Leg., p. 518, ch. 314, § 4.

Filed without the Governor's signature,
May 27, 1941.

Effective May 26, 1941.

Art. 1137—4. Violations; punishment

Any person or persons, firm or firms, partnership or partnerships, association or associations, corporation or corporations, or any agent or servant thereof, who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed the sum of Five Hundred Dollars (\$500), or by imprisonment

not to exceed one hundred (100) days, or by both such fine and imprisonment. Acts 1941, 47th Leg., p. 518, ch. 314, § 5.

Filed without the Governor's signature,
May 27, 1941.

Effective May 26, 1941.

Art. 1137l—5. Application of act

The provisions of this Act shall not apply to pawnbrokers' auction sales of unredeemed pledges. Acts 1941, 47th Leg., p. 518, ch. 314, § 6.

Filed without the Governor's signature,
May 27, 1941.

Effective May 26, 1941.

Art. 1137l—6. Partial invalidity

If any article, section, subsection, sentence, clause, or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases are declared unconstitutional. Acts 1941, 47th Leg., p. 518, ch. 314, § 7.

Filed without the Governor's signature,
May 27, 1941.

Effective May 26, 1941.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER THREE—MALICIOUS MISCHIEF

Art.

1377a. Killing, injuring, or molesting Antwerp Messenger or homing pigeons; removing or altering identification mark [New].

Art. 1377. [1235] Entering inclosed land to hunt or fish

Acts 1939, 46th Leg., Spec.L., p. 335, of 15,149 to 15,300, was repealed by Acts relating to entry upon lands without consent of owner to hunt or fish, in counties 1941, 47th Leg., p. 57, ch. 39, § 1.

Art. 1377a. Killing, injuring, or molesting Antwerp Messenger or homing pigeons; removing or altering identification mark

Section 1. It shall be unlawful for any person, other than the owner thereof, to shoot, kill, maim, injure, molest, entrap, or detain any Antwerp Messenger or Homing Pigeon, commonly called "carrier pigeon," having the name of its owner stamped upon its wing or tail or bearing upon its leg a band or ring with the name or initials of the owner or an identification or registration number stamped thereon. It shall be no defense that any person, knowingly committing such prohibited act, did not know that the Antwerp Messenger or Homing Pigeon had the name of its owner stamped upon its wing or tail or bore upon its leg a band or ring with the name or initials of the owner or an identification or registration number stamped thereon.

Sec. 2. It shall be unlawful for any person other than the owner thereof or his authorized agent to remove or alter any stamp, leg band, ring, or other mark of identification attached to any Antwerp Messenger or Homing Pigeon.

Sec. 3. Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed Twenty-five Dollars (\$25) for every such offense. Acts 1941, 47th Leg., p. 721, ch. 446.

Filed without the Governor's signature, June 7, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 4 of the Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Title of Act:

An. Act to make it unlawful for any

person, other than the owner thereof, to shoot, kill, maim, injure, molest, entrap, or detain any Antwerp Messenger or Homing Pigeon, commonly called a "carrier pigeon"; making it unlawful for person other than owner to remove or alter any stamp or identification mark; and to provide a penalty for the violation thereof; and declaring an emergency. Acts 1941, 47th Leg., p. 721, ch. 446.

CHAPTER EIGHT—THEFT IN GENERAL

Art.

1436b. Theft of mercury from meter of gas pipe-line; felony [New].

Art. 1434. Second-hand motor vehicle—License fee receipt

Article was repealed by Acts 1939, 46th Leg., p. 602, § 65, as amended by Acts 1941, 47th Leg., p. 343, ch. 187, § 7, in so far as it required the delivering of bills of sale

on motor vehicles to the transferee when the same are sold or transferred.

Manner of issuing receipts and certificates of title, see article 1436—1.

Art. 1435. Repealed. Acts 1939, 46th Leg., p. 602, § 65, as amended Acts 1941, 47th Leg., p. 343, ch. 187, § 7.

Article was amended by Acts 1931, 42nd Leg., p. 36, ch. 29, § 2. Transfer of second-hand motor vehicles, see article 1436—1.

Art. 1436—1. Motor vehicles; Certificate of Title Act.

Section 1. This Act shall be referred to, cited, and known as the "Certificate of Title Act," and in the enactment hereof it is hereby declared to be the legislative intent and public policy of this State to lessen and prevent the theft of motor vehicles and the importation into this State of, and traffic in, stolen motor vehicles, and the sale of encumbered motor vehicles without the enforced disclosure to the purchaser of any and all liens for which any such motor vehicle stands as security, and the provisions hereof, singularly and collectively, are to be liberally construed to that end. The following terms, as herein defined, shall control in the enforcement and construction of this Act. As amended Acts 1941, 47th Leg., p. 343, ch. 187, § 1.

Sec. 1a. The provisions of House Bill No. 407, Chapter 4, Acts of the Forty-sixth Legislature, Regular Session, and as by this Act amended, shall not apply to the filing or recording of a lien or liens which are created only upon tires, radios, heaters, or other automobile accessories. Added Acts 1941, 47th Leg., p. 343, ch. 187, § 8.

Sec. 24a. The certificate of title section, and its personnel, property, equipment, and records, now a part of the Department of Public Safety of the State of Texas, are hereby transferred to and placed under the jurisdiction of the Highway Department of the State of Texas. Added Acts 1941, 47th Leg., p. 343, ch. 187, § 9.

Sec. 25. The term "department" means the State Highway Department of the State of Texas. As amended Acts 1941, 47th Leg., p. 343, ch. 187, § 2.

Sec. 31. Every designated agent in this State receiving an application for certificate of title shall, when the provisions hereof have been complied with, issue a receipt marked "Original" to the applicant and shall note thereon the required information concerning the motor vehicle and the existence or nonexistence of liens as disclosed in the application and deliver such receipt upon payment of the required fees to the applicant; provided however, that in the event there is a lien disclosed in the application, the said receipt shall be issued in duplicate, one of which shall be marked "Original" and shall be mailed or delivered by every such designated agent to the first lien holder as disclosed in said application; the other said copy shall be marked "Duplicate Original" and shall be mailed or delivered to the address of the applicant as disclosed in the said application, and such receipt pending the issuance of the certificate of title shall authorize the operation of such motor vehicle on the highways and public places within this State for a period of not to exceed ten (10) days and upon the expiration of such period of time shall cease to be effective for any purpose, but may be renewed under such reasonable rules and regulations as may be promulgated by the Department. As amended Acts 1941, 47th Leg., p. 343, ch. 187, § 3.

Sec. 32. Every designated agent within this State shall, on the same day issued by him, forward to the Department, by mail prepaid postage, copies of all receipts issued by him together with such evidences of title as may have been delivered to him by the several applicants, and the Department within five (5) days after receiving such application, if upon inspection thereof it is satisfactorily shown that the certificate of title should issue, shall issue certificate of title marked "Original"

on the face thereof and send the same to the address of the applicant as given in his application by first class mail; provided however, that in the event there is a lien disclosed in the application the said certificate of title shall be issued in duplicate, one of which shall be marked "Original" and shall be mailed to the address of the first lien holder as disclosed in said certificate of title by first class mail; the copy of said certificate of title shall be marked "Duplicate Original" and shall be sent by first class mail to the address of the applicant as given in his application. As amended Acts 1941, 47th Leg., p. 343, ch. 187, § 4.

Sec. 32a. The receipt or certificate of title marked "Duplicate Original" shall be used only as evidence of title of said motor vehicle and shall not be used by any person in transferring any interest in said motor vehicle or to establish any lien thereon. Added Acts 1941, 47th Leg., p. 343, ch. 187, § 10.

Sec. 36. Should a certificate of title, "Duplicate Original" or "Original," be lost or destroyed, the owner or lien holder thereof may procure a certified copy of same directly from the Department by making affidavit upon such form as may be prescribed by the Department from time to time, accompanied by a fee of Twenty-five (25) Cents, which shall be deposited in the State Highway Fund and be expended as provided by Section 57 of this Act, provided however, that the certified copy of the certificate of title marked "Original" shall issue only to the first lien holder where a lien is disclosed thereon. Said certified copy and all subsequent certificates of title issued, until transfer of ownership of said motor vehicle, shall be plainly marked across their faces "Certified Copy," and all subsequent purchasers or lien holders of said motor vehicle shall acquire only such rights, title, or interest in such motor vehicles as the holder of the said certified copy had, provided however, that upon the transfer of title to said motor vehicle, the words "Certified Copy" shall be eliminated from the new certificate of title. Any purchasers or lien holders of such motor vehicle may at the time of such purchase or at the time lien is established require the seller or owner to indemnify him and all subsequent purchasers of said motor vehicle against any loss which he or they may suffer by reason of any claim or claims presented upon the said original certificate of title. In the event of recovery of the said certificate of title, "Duplicate Original" or "Original" thereof, the said owner shall forthwith surrender the same to the Department for cancellation and the words "Certified Copy" shall be eliminated from said certificates thereafter issued by the Department. As amended Acts 1941, 47th Leg., p. 343, ch. 187, § 5.

Sec. 57. Each applicant for a certificate of title or reissuance thereof shall pay to the designated agent the sum of Fifty (50) Cents, of which Twenty-five (25) Cents shall be retained by the designated agent from which he shall be entitled to sufficient money to pay expenses necessary to efficiently perform the duties set forth herein, and the remaining Twenty-five (25) Cents shall be forwarded to the Department for deposit to the State Highway Fund, together with the application for certificate of title within twenty-four (24) hours after same has been received by said designated agent, from which fees the Department shall be entitled to and shall use sufficient money to pay all expenses necessary to efficiently administer and perform the duties set forth herein, and there is hereby appropriated to the Department all of such fees for salaries, traveling expense, stationery, postage, contingent expense, and all other expenses necessary to administer this Act through the biennium ending August 31, 1943. As amended Acts 1941, 47th Leg., p. 343, ch. 187, § 6.

Sections 1-6, 8-9 of Acts 1941, 47th Leg., p. 343, ch. 187, were approved and effective May 1, 1941.

Section 11 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws. Section 12 declared an emergency

and provided that the Act should take effect from and after its passage.

Section 65 of Acts 1939, 46th Leg., p. 602, as amended by Acts 1941, 47th Leg., p. 343, ch. 187, § 7, read as follows: "That Article 1434, Chapter 8, Title 17 of the Penal Code of Texas, 1925, as amended by Chapter 77 of the First Called Session of the Fortieth Legislature and as amended by Chapter 29 of the Forty-second Legislature, Regular Session, 1931, be and the same is hereby repealed, in so far as it requires the delivering of bills of sale on motor vehicles to the transferee when the same are sold or transferred. That Article 1435, Chapter 8, Title 17 of the Penal Code of Texas, 1925, as amended by Chapter 29 of the Forty-second Legislature, Regular Session, 1931, be and the same is hereby repealed. That Article 5490 of the Revised Civil Statutes of Texas, 1925, Acts of the Thirty-ninth Legislature, Chapter 157, page 368, be and the same is hereby repealed in so far only as it affects the filing and recording of liens on motor vehicles. That all Acts or parts of Acts inconsistent with this

Act in so far as they may affect motor vehicles or title thereto are hereby repealed."

Acts 1941, 47th Leg., p. 847, ch. 523, transferred to the State Highway Fund all unexpended and unobligated balances of appropriations made to the Department of Public Safety for use in paying salaries and other costs of the Certificate of Title Division; made an appropriation out of the General Revenue Fund to the State Highway Department to carry out the provisions of Acts 1941, 47th Leg., p. 343, ch. 187; provided for the repayment of any amounts expended from the appropriation to the General Revenue Fund from certificate of title fees received during the biennium ending August 31, 1943; and provided "that the State Highway Department pay no salaries to any persons employed by the Certificate of Title Division of the State Highway Department in excess of the amount or amounts paid for the same or similar positions in any Department of the State Government."

Art. 1436b. Theft of mercury from meter of gas pipe-line; felony

Section 1. Any person who shall enter upon any premises or gas pipe-line right of ways with intent to steal or carry away without the consent of the owner, or with intent to aid or assist in stealing or so carrying away any mercury from and out of any gas meter or any device by or through which the flow, movement, or pressure of gas is measured or regulated, or which is capable of being used to measure, regulate or control the movement of gas, shall be guilty of a felony and upon conviction shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by confinement in the county jail for not less than ninety (90) days nor more than two hundred (200) days, or shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by both such fine and imprisonment.

"Gas" as that term is used herein means natural gas or artificial gas or a combination or mixture of any such gases.

Sec. 2. It is the finding and declaration that the public health, safety, and welfare require that title to any mercury should be transferred by a written bill of sale.

"Mercury" as that term is used herein means the common mineral known by that term not in combination with any other liquid, fluid, or mineral.

Sec. 3. Any person who may be found in any county in this State with mercury in his possession, and who has not in his possession a bill of sale, or other written evidence of title to said mercury shall be guilty of a felony, and upon conviction thereof, shall be confined in the penitentiary for a term of not less than one (1) year nor more than five (5) years, or shall be confined in the county jail for not less than ninety (90) days nor more than two hundred (200) days, or shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by both such fine and imprisonment.

Sec. 4. This Act shall be cumulative of all laws of the State and any violation hereof may be prosecuted, irrespective of whether or not the acts complained of may constitute some of the essential elements of

other or different offenses against the penal laws of this State; and for the purposes of this Act the word "steal" shall mean to take wrongfully and without just claim of authority any mercury, and the word "steal" need not be defined in any indictment for the prosecution of any offense hereunder.

Sec. 5. If any section, paragraph, sentence, clause, or word of the Act is held to be unconstitutional, the remaining portions of the same nevertheless shall be valid and the Legislature declares that the Act would have been enacted without such unconstitutional portion. Acts 1941, 47th Leg., p. 788, ch. 490.

Approved and effective June 13, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act making it unlawful and a felony for any person who shall enter upon any premises or gas pipe-line right of ways with intent to steal or carry away without consent of the owner or assist in stealing or so carrying away any mercury from and out of any gas meter or measuring device or regulating device; defining the terms "gas," "mercury," and "steal," as used in this Act; declaring that the public health, safety, and welfare require that

title to any mercury shall be transferred by a written bill of sale; providing that any person in any county in this State with mercury in his possession and who has not in his possession a bill of sale or who is otherwise unable to establish title thereto, shall be guilty of a felony; providing penalties for violation of the terms of this Act; providing that this Act shall be cumulative of all laws of this State; authorizing the prosecution thereunder whether or not the acts complained of constitute the essential elements of other or different offenses against the penal laws; providing a saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 788, ch. 490.

TITLE 18—LABOR

CHAPTER 10. INTERFERENCE WITH LABOR OR VOCATION

Art.

1621b. Preventing others from engaging in lawful vocation; attempts; labor dispute, unlawful assemblage near place of [New].

Art. 1621a. Unconstitutional

Article, derived from Acts 1929, 41st Leg., p. 408, ch. 189, which prohibited any person from going on the premises or plantation of a citizen between sunset and sunrise to assist any laborer or tenant from moving his property or effects therefrom

without the consent of the owner of the premises, was held unconstitutional as violating Const.U.S. Amend. 14, Const.Bill of Rights § 3, and Pen.Code 1925, art. 6. See Ex parte Lane, 113 Cr.R. 473, 22 S.W.2d 306.

Art. 1621b. Preventing others from engaging in lawful vocation; attempts; labor dispute, unlawful assemblage near place of

Section 1. It shall be unlawful for any person by the use of force or violence, or threat of the use of force or violence, to prevent or to attempt to prevent any person from engaging in any lawful vocation within this State. Any person guilty of violating this Section shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by confinement in the State Penitentiary for not less than one year nor more than two (2) years.

Sec. 2. It shall be unlawful for any person acting in concert with one or more other persons to assemble at or near any place where a "labor dispute" exists and by force or violence prevent or attempt to prevent any person from engaging in any lawful vocation, or for any person, acting either by himself, or as a member of any group or organization,

or acting in concert with one or more other persons, to promote, encourage, or aid any such unlawful assemblage. Any person guilty of violating this Section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by confinement in the State Penitentiary for not less than one year, nor more than two (2) years.

Sec. 3. The term "labor dispute" as used in this Act shall include any controversy between an employer and two (2) or more of his employees concerning the terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment.

Sec. 4. The provisions of this Act shall be cumulative of all other existing Articles of the Penal Code upon the same subject, and in the event of a conflict between existing Articles and the provisions of this Act, then and in that event the provisions, offenses, and punishments set forth herein shall prevail over such existing Articles.

Sec. 5. If any section, paragraph, clause, or provision of this Act is declared unconstitutional, inoperative, or invalid by any Court of competent jurisdiction, the same shall not affect nor invalidate the remainder of this Act. Acts 1941, 47th Leg., p. 128, ch. 100.

Approved and effective April 4, 1941.

Section 6 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act making unlawful the use of force or violence or threats thereof to prevent or attempt to prevent any person from engaging in any lawful vocation and providing penalties for the violation thereof; making it unlawful for any person act-

ing in concert with other persons to assemble and prevent or attempt to prevent by force or violence any person from engaging in a lawful vocation and making it unlawful to encourage and aid such unlawful assemblage and providing penalties for the violation thereof; defining the term "labor dispute"; making the provisions of this Act cumulative of existing laws; and providing a severance or saving clause; and declaring an emergency. Acts 1941, 47th Leg., p. 128, ch. 100.

TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER SEVEN—OPERATING RAILROADS

Art. 1672. 1524 Failure to ring bell or blow whistle; stop at crossings; ordinances, compliance with

Any engineer having charge of a locomotive engine while such engine is approaching a place where two lines of railway cross each other, who shall, before reaching such railway crossing fail to bring such engine to a full stop or who shall fail to blow the whistle and ring the bell on such engine at the distance of at least eighty (80) rods from the place where the railroad shall cross any public road or streets, or who shall fail to keep said bell ringing until such engine shall have crossed said road or street or stopped, shall be fined not less than Five (\$5.00) Dollars nor more than One Hundred (\$100.00) Dollars, provided that the full stop at such crossings may be discontinued when the railroads crossing each other shall put into full operation at such crossing an interlocking switch and signal apparatus, or shall have a flagman in attendance at such crossings; provided, however, that the governing bodies of every city or town having a population of five thousand (5,000) or more inhabitants according to the last Federal Census may regulate by ordinance the ringing of bells and blowing of whistles within their corporate limits, and a compliance with said ordinance, will be full compliance with the terms and provisions of this Act and a sufficient warning to the public at such crossings as such ordinance may affect. As amended Acts 1941, 47th Leg., p. 349, ch. 189, § 2.

Approved and effective May 2, 1941. Act should take effect from and after its passage.
 Section 4 of amendatory Act of 1941 declared an emergency and provided that the

[CHAPTER TEN A]—PLANT DISEASES AND PESTS

[Art. 1700a—1. Quarantine and insect and plant disease control]

When rules and regulations, promulgated by the Commissioner of Agriculture pursuant to any quarantine order authorized in this Act, shall provide for the prevention of the selling, moving, transporting of any plants, plant products, things, or substances from any area quarantined or declared infested as provided for herein, or shall provide for the destruction of trees or fruits, or for the cleaning of orchards or treatment of orchards, or methods of storage, or shall provide for the prevention of the entry into any pest-free zone of any plants, plant products, things, or substances found to be dangerous to the agricultural and horticultural interests of such pest-free zone, or shall provide for the maintenance of a host-free period in which certain fruits are not to be allowed to be ripened, or shall provide for any specific treatment of a grove or orchard, any person or persons found guilty of selling, carrying, or transporting such plants or plant products from a quarantined area or areas declared infested or into an area declared to be a pest-free zone, as the case may be, or who shall maintain any ripening fruit during the host-free period on any tree declared to be a nuisance in such quarantine order, or fails or refuses to administer the treatment provided for, including specific methods of spraying, removing diseased parts, removing and destroying fallen or culled fruits, or removing such

weeds or plants as may be hosts or carriers of insect pests or plant diseases, or failing to store products in manner as may be required, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed One Hundred Dollars (\$100), and each thing, sold or transported, and each act in violation hereof, shall be considered a separate offense; and provided further that any person violating any of the provisions of this Act may be prosecuted therefor in any county of this State where such violation occurs. As amended Acts 1941, 47th Leg., p. 636, ch. 384, § 1.

Approved and effective May 27, 1941.

Section 2 of amendatory Act of 1941 declared an emergency and provided that the

Act should take effect from and after its passage.

Art. 1708a. Repealed. Acts 1941, 47th Leg., p. 893, ch. 551, § 12. Eff. 90 days after July 3, 1941, date of adjournment

Article derived from Acts 1929, 41st Leg., p. 678, ch. 304, § 11, related to regulating sale of agricultural seeds, prosecutions, venue, and penalty.

Texas Seed Law, violation of as misdemeanor, see Vernon's Rev.Civ.St., art. 93b.

THE
CODE OF CRIMINAL
PROCEDURE

TITLE 2—COURTS AND CRIMINAL JURISDICTION

ACTS CREATING CRIMINAL DISTRICT COURTS AND SIMILAR COURTS AND AFFECTING SUCH COURTS, AND DECISIONS THEREUNDER

Arts. 52—145 to 52—156. Repealed. Acts 1933, 43rd Leg., Spec.L., p. 64, ch. 53, § 1, as amended, Acts 1941, 47th Leg., p. 761, ch. 475, § 1. Eff. Jan. 1, 1942

Sections 2 and 3 of Acts 1941, 47th Leg., p. 761, ch. 475, read as follows:

"§ 2. That the jurisdiction of the 'County Court of Galveston County at Law' be and it is hereby vested in the County Court of Galveston County, Texas, and all writs and process heretofore issued by said 'County Court of Galveston County at Law' and all writs and process in misdemeanor cases heretofore issued by or out of the District Court of the Tenth Judicial District of Texas be and the same are hereby made returnable to the County Court of Galveston County, Texas.

"§ 3. All sums received in payment of fines and fees in all such misdemeanor cases, the jurisdiction of which is hereby transferred to the County Court of Galveston County, shall be paid to and de-

posited in the Road and Bridge Fund of said County. The County Judge and the County Clerk of said Galveston County shall each be allowed by said County, to be paid from said Road and Bridge Fund, the sum of Six Hundred (\$600.00) Dollars per year, payable in equal monthly installments, as additional compensation for handling said misdemeanor cases and shall be in addition to all salaries now being paid to such officers from the Officers' Salary Fund of said County. The County Clerk of Galveston County shall have authority to appoint an additional Deputy Clerk to handle such misdemeanor cases to be paid a salary not to exceed One Hundred Twenty-five (\$125.00) Dollars per month by said County from the Road and Bridge Fund of said County."

TITLE 4—LIMITATION AND VENUE

CHAPTER ONE—LIMITATION

Art. 177. 225, 215 Treason; theft or conversion by executor, administrator or guardian; forgery

An indictment for treason may be presented within twenty (20) years, or for theft or conversion of any estate, real, personal, or mixed by an executor, administrator, or guardian with intent to defraud any creditor, heir, legatee, ward, or distributee interested in such estate, may be presented within ten (10) years, and for forgery or the uttering, using or passing of forged instruments, within ten (10) years from the time of the commission of the offense, and not afterward. As amended Acts 1941, 47th Leg., p. 512, ch. 310, § 1.

Approved May 20, 1941.

Effective May 20, 1941.

Section 2 of amendatory Act of 1941

declared an emergency and provided that the Act should take effect from and after its passage.

Art. 183. 231, 221 Absence from state and time of pendency of indictment, etc., not computed

1. The time during which the accused is absent from the State shall not be computed in the period of limitation.

2. The time during the pendency of an indictment, information, or complaint shall not be computed in the period of limitation.

3. The term "during the pendency," as used herein, means that period of time beginning with the day the indictment, information, or complaint is filed in a court of competent jurisdiction and ending with the day such accusation is, by an order of a trial court having jurisdiction thereof, determined to be invalid for any reason. As amended, Acts 1941, 47th Leg., p. 1335, ch. 603, § 1.

Approved and effective July 9, 1941.

Section 2 of the amendatory Act of 1941 read as follows: "If any section, subsection, sentence, clause, or phrase of this Act shall for any reason be held to be void or unconstitutional, such provision shall not affect the validity of the remaining portions of this Act, and such remain-

ing portion shall remain in full force and effect, and the Legislative intent is declared to be that the remaining sections would have been enacted notwithstanding the void sections."

Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

Art.

338a. Extension beyond term of period for which grand jurors shall sit in counties over 500,000 [New].

Art.

367c—1. Grand jury bailiffs in counties of 250,000 to 500,000; compensation [New].

Art. 338a. Extension beyond term of period for which grand jurors shall sit in counties over 500,000

In all counties having a population of more than five hundred thousand (500,000) according to the last preceding Federal Census, if, prior to the expiration of the term for which the grand jury was empaneled, it is made to appear by a declaration of the foreman or of a majority of the grand jurors in open Court, that the investigation by the grand jury of the matters before it cannot be concluded before the expiration of the term, the Judge of the District Court in which said grand jury was empaneled may, by the entry of an order on the minutes of said Court, extend for the purpose of concluding the investigation of matters then before it, the period during which said grand jury shall sit, for not to exceed thirty (30) days after the expiration of the term for which it was empaneled, and all indictments returned by the grand jury within said extended period shall be as valid as if returned before the expiration of the term. Acts 1941, 47th Leg., p. 561, ch. 354, § 1.

Filed without the Governor's signature, May 28, 1941.

Effective May 28, 1941.

Section 2 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing in counties having a population of more than five hundred thousand (500,000) for the extension for not to exceed thirty (30) days after the expiration of the term, of the period during which a grand jury may sit to conclude its investigation, and declaring an emergency. Acts 1941, 47th Leg., p. 561, ch. 354.

Art. 367c—1. Grand jury bailiffs in counties of 250,000 to 500,000; compensation

The judges of the Criminal District Courts in any county having a population of not less than two hundred fifty thousand (250,000) inhabitants and not more than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census shall appoint grand jury bailiffs, not exceeding seven (7), whose compensation shall be Two Thousand Five Hundred Twenty (\$2,520.00) Dollars per annum, each; such compensation to be paid out of the general fund or jury fund in twelve (12) equal monthly installments.

Bailiffs thus appointed are subject to removal without cause at the will of the judge (or judges if there be more than one) of any such Criminal District Court. Acts 1941, 47th Leg., p. 784, ch. 487, § 1.

Filed without the Governor's signature, June 19, 1941.

Effective June 18, 1941.

Section 2 of the Act of 1941 repealed all conflicting laws and parts of laws. Section 3 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing for the compensation

of grand jury bailiffs in counties having a population of not less than two hundred fifty thousand (250,000) inhabitants and not more than five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census; repealing all laws or parts of laws in conflict herewith to the extent of such conflict only; and declaring an emergency. Acts 1941, 47th Leg., p. 784, ch. 487.

CHAPTER FOUR—PROCEEDINGS PRELIMINARY TO TRIAL

8. CONTINUANCE

Art. 540. 605, 594 For sufficient cause shown

Continuance for attendance on Legislature, see art. 2168a, Rev. Civil Statutes.

TITLE 9—PROCEEDINGS AFTER VERDICT

CHAPTER THREE—JUDGMENT AND SENTENCE

1. IN CASES OF FELONY

Art. 768. 855, 833 Pronouncing sentence; time; credit for time spent in jail between arrest and sentence or pending appeal

If a new trial is not granted, nor judgment arrested in felony cases, the sentence shall be pronounced in the presence of the defendant at any time after the expiration of the time allowed for making the motion for a new trial or the motion in arrest of judgment; provided that in all criminal cases the judge of the court in which defendant was convicted, may within his discretion, give the defendant credit on his sentence for the time, or any part thereof, which said defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court; and provided further that in all cases where the defendant has been tried for any violation of the laws of the State of Texas, and has been convicted and has appealed from said judgment and/or sentence of conviction, and where said cause has been affirmed by the Court of Criminal Appeals, and after receipt of the mandate by the Clerk of the trial court, the judge is authorized to

again call said defendant before him, and if, pending appeal, the defendant has not made bond or entered into recognizance and has remained in jail pending the time of such appeal, said trial judge may then in his discretion re-sentence the defendant, and may subtract from the original sentence pronounced upon the defendant, the length of time the defendant has lain in jail pending such appeal; provided, however, that the provisions of this Act shall not apply after conviction and sentence in felony cases in which bond or recognizance is not permitted by law. As amended Acts 1941, 47th Leg., p. 193, ch. 139, § 1.

Approved April 15, 1941.

Effective April 15, 1941.

Section 2 of the amendatory Act of 1941 repealed all conflicting laws and parts of laws.

Section 3 of amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Art. 777. Judgment suspending sentence; good behavior defined

1. When sentence is suspended, the judgment shall be that sentence of the judgment of conviction shall be suspended during the good behavior of the defendant.

2. By "good behavior" is meant that the defendant shall not be convicted of any felony, or any character or grade of the offenses of theft, embezzlement, swindling, conversion, theft by bailee, or any fraudulent acquisitions of personal property. As amended, Acts 1941, 47th Leg., p. 1334, ch. 602, § 1.

Approved July 9, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 3 of the amendatory Act of 1941 read as follows: "If any section, sub-section, sentence, clause, or phrase of this Act shall for any reason be held to be void or unconstitutional, such provision shall not affect the validity of the remain-

ing portions of this Act, and such remaining portion shall remain in full force and effect, and the Legislative intent is declared to be that the remaining sections would have been enacted notwithstanding the void sections."

Section 4 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

Art. 779. Suspended sentence made final

1. Upon the final conviction of the defendant of any other felony, pending the suspension of sentence, the court granting such suspension shall cause a *capias* to issue for the arrest of the defendant if he is not then in the custody of such court, and during a term of the court, shall pronounce sentence upon the original judgment of conviction, and shall cumulate the punishment of the first with the punishment of any subsequent conviction or convictions, and in such cases no new trial shall be granted in the first conviction, nor shall the validity or finality of the first conviction be attacked by appeal or otherwise, and no right of appeal shall exist to test the validity of the judgment of conviction, sentence upon which was suspended.

2. Upon the final conviction of the defendant of any character or grade of the offenses of theft, embezzlement, swindling, conversion, theft by bailee, or any fraudulent acquisition of personal property, pending the suspension of sentence, the court granting such suspension may cause a *capias* to issue for the arrest of the defendant, if he is not then in the custody of such court, and during the term of the court may pronounce sentence upon the original judgment of conviction, and may cumulate the punishment of the first with the punishment of any such subsequent conviction or convictions, and in such cases no new trial shall be granted in

the first conviction. The term "may," as herein used, shall not be construed to be mandatory. As amended, Acts 1941, 47th Leg., p. 1334, ch. 602, § 2.

Effective date. See note under article 777.

CHAPTER FOUR—EXECUTION OF JUDGMENT

1. IN MISDEMEANOR CASES

Article 793. [878] [856] Fine discharged

When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding article, or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such labor or imprisonment at Three Dollars (\$3.00) for each day thereof. As amended Acts 1927, 40th Leg., 1st C.S., p. 194, ch. 68, § 1; Acts 1934, 43rd Leg., 2nd C.S., p. 85, ch. 33, § 1.

Amendment of 1937. Article 793 as amended by Acts 1937, 45th Leg., 1st C.S., p. 1808, ch. 30, § 1, was declared unconstitutional in *Ex parte Ferguson*, 137 Cr. R. 494, 132 S.W.2d 408, followed in *Ex parte Patterson*, 137 Cr.R. 504, 132 S.W.2d 411,

Ex parte Williams, 137 Cr.R. 514, 132 S.W. 2d 411, *Ex parte Yates*, 137 Cr.R. 515, 132 S.W.2d 412, *Ex parte Sudderth*, 137 Cr.R. 506, 132 S.W.2d 412; *Ex parte Young*, 138 Cr.R. 413, 136 S.W.2d 863.

Art. 793a. Unconstitutional

This article, derived from Acts 1937, 45th Leg., 2nd C.S., p. 1889, ch. 18, § 1,

was declared unconstitutional in *Ex parte Ferguson*, 137 Cr.R. 494, 132 S.W.2d 408.

Art. 794a. Unconstitutional

This article, derived from Acts 1937, 45th Leg., p. 206, ch. 109, was declared

unconstitutional in *Ex parte Ferguson*, 137 Cr.R. 494, 132 S.W.2d 408.

Art. 794b. Unconstitutional

This article, derived from Acts 1937, 45th Leg., p. 657, ch. 325, § 1, was declared

unconstitutional in *Ex parte Ferguson*, 137 Cr.R. 494, 132 S.W.2d 408.

Art. 794c. Unconstitutional

This article, derived from Acts 1937, 45th Leg., 1st C.S., p. 1751, ch. 7, was de-

clared unconstitutional in *Ex parte Ferguson*, 137 Cr.R. 494, 132 S.W.2d 408.

Art. 794d. Unconstitutional

This article, derived from Acts 1937, 45th Leg., 2nd C.S., p. 1901, ch. 24, § 1,

was declared unconstitutional in *Ex parte Ferguson*, 137 Cr.R. 494, 132 S.W.2d 408.

TITLE 15—COSTS IN CRIMINAL ACTIONS

CHAPTER TWO—COSTS PAID BY THE STATE

Art.

1030a. Fugitives from justice; allowance to sheriffs and deputies for expenses [New].

Art. 1030a. Fugitives from justice; allowance to sheriffs and deputies for expenses

Sec. 1. Every sheriff, or deputy sheriff, in any county of this State, who shall hereafter arrest, or cause to be arrested, any person, or persons indicted for a criminal offense of the grade of a felony, in the county where such officer is the duly acting sheriff, or deputy sheriff, shall be paid the sum of five cents (5¢) per mile from the state line and return thereto, along the nearest practicable route, to the point where such person or persons has been, or will be, placed under arrest, and in addition thereto, such officer, or officers, shall be paid, not to exceed Five Dollars (\$5) per day, per person, for hotel bills, meals and other expenses necessarily contracted in the performance of such official duty.

Sec. 2. The Comptroller of Public Accounts of the State of Texas is authorized and directed to pay, out of any fund or funds, provided for such purpose, upon the presentment of a duly itemized and verified mileage, per diem and expense account of any such officer, approved by the District Judge of the District where such official duty was performed as provided in the preceding Section, all of such account due, provided that only one (1) claim for mileage shall be paid for any such trip, and further providing that not more than two (2) such officers shall draw per diem and expense accounts for one (1) of such trips.

Sec. 3. In the event the Comptroller of Public Accounts of the State of Texas certifies that no funds are available for the payment of such per diem mileage and expense account, as specified in the preceding Section, then upon presentment of such itemized account duly verified by such officer and approved by the District Judge of the Judicial District in which such county is located, the Commissioners Court is authorized, within its discretion, to pay out of any fund or funds not otherwise pledged, such mileage per diem and expense accounts.

Sec. 4. It is further specifically provided that if the county of the sheriff or deputy sheriff making said trip is operating on a fee basis and no State funds are available, then and in that event, the Commissioners Court is authorized, within its discretion, to pay out of any available funds the mileage and per diem not in excess of the amounts stated in Section 1 of this Act, to said sheriff or deputy sheriff from the county seat to the state line and return.

Sec. 5. The compensation herein provided for the sheriff or any deputy sheriff of the county shall be allowable to such officer as expenses of office, and shall not be included in his compensation, and/or salary paid him, as now authorized by law.

Sec. 6. The provisions of this Act shall be severable, and if any section, subsection, sentence, clause or word of the same shall be held unconstitutional, or invalid for any reason, the same shall not be construed to affect the validity of any of the remaining provisions of this Act. It is hereby declared as the legislative intent that this Act would have been adopted, had such invalid provision not been included therein.

Sec. 7. It is not the intention of the Legislature by the passage of this Act to repeal any existing law providing for the reimbursement of traveling expenses and this Act is cumulative of all other statutes on this subject. Acts 1941, 47th Leg., p. 669, ch. 412.

Filed without the Governor's signature, June 4, 1941.

Effective June 6, 1941.

Section 8 of the Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Title of Act:

An Act providing that any sheriff or deputy sheriff who in the fulfillment of the duties of his office leaves the county in which he holds office to secure and return a prisoner indicted for a criminal offense of the grade of a felony shall be entitled to receive five cents (5¢) per mile for transportation, and that the distance traveled shall be the shortest practicable route between points; provided further that such sheriff or deputy sheriff shall receive a per diem sum not to exceed Five Dollars (\$5) per day for meals and lodging; provided that the State Comptroller is authorized and directed to pay such expense items when a duly certified record thereof shall have been approved by the District Judge in and for the county in which said sheriff or deputy sheriff holds office; provided that not more than one

(1) person may claim mileage for any one (1) trip and not more than two (2) persons may claim per diem meal and lodging expense for any one (1) trip; provided that in case the State Comptroller declares no State funds available for such purpose, the Commissioners Court of the county in which said sheriff or deputy sheriff holds office may pay such traveling expense at the discretion of the court; provided that if the county in which said sheriff or deputy sheriff holds office is on a fee basis and no State funds are available, the Commissioners Court may, at its discretion, pay such traveling expense; provided that such traveling expense shall be regarded as expenses of the office of sheriff and shall not be included as compensation for such sheriff or deputy sheriff; providing that the provisions of this Act are severable, and that if any portion of the Act is declared invalid, the remainder shall not be affected thereby; providing that this Act shall not supersede any existing law providing for reimbursement for traveling expense, but is cumulative of all such Acts; and declaring an emergency. Acts 1941, 47th Leg., p. 669, ch. 412.

Art. 1036. 1138, 1003¹ Witness fees

(1). Any witness who may have been subpoenaed, or shall have been recognized or attached and given bond for his appearance before any Court, or before any grand jury, out of the county of his residence, to testify in a felony case regardless of disposition of said case, and who appears in compliance with the obligations of such recognizance or bond, shall be allowed Three (3) Cents per mile going to and returning from the Court or grand jury, by the nearest practical conveyance, and Two Dollars (\$2) per day for each day he may necessarily be absent from home as a witness in such case;

Provided, any witness who may have been subpoenaed, or shall have been recognized or attached and given bond for his appearance before any Court, out of the county of his residence, to testify in a felony case, and who appears in compliance with said subpoena or with the obligations of such recognizance or bond, and the case in which he is a witness is reset for a later day in the same term of Court, not exceeding four (4) days, shall not be paid mileage for any additional trip to or from Court he may make by reason of the resetting of said case, unless permission first had and obtained from the trial Judge to make said trip, but shall be entitled to receive his per diem for the additional days he may be in attendance upon Court by reason of the resetting of the case.

Witnesses shall receive from the State, for attendance upon District Courts and grand juries in counties other than that of their residence in obedience to subpoenas issued under the provisions of law Three (3) Cents per mile, going to and returning from the Court or grand jury, by the nearest practical conveyance, and Two Dollars (\$2) per day for each day they may necessarily be absent from home as a witness to be paid as now provided by law; and the foreman of the grand jury, or

the District Clerk, shall issue such witness certificates therefor, after deducting therefrom the amounts advanced by the officers serving said subpoenas, as shown by the returns on said subpoenas; which certificates shall be approved by the District Judge, and recorded by the Clerk in a well-bound book kept for that purpose; provided, that when an indictment can be found from the evidence taken before an inquest or examining trial, no subpoena or attachment shall issue for a witness who resides out of the county in which the prosecution is pending to appear before a grand jury. When the grand jury shall certify to the District Judge that sufficient evidence can not be secured upon which to find an indictment, except upon testimony of nonresident witnesses, the District Judge may have subpoenas issued as provided for by law to other counties for witnesses to testify before the grand jury, not to exceed one witness to any one fact, nor more than three (3) witnesses to any one case pending before the grand jury.

(2). Witness fees shall be allowed only to such witnesses as may have been summoned on the sworn written application of the State's attorney or the defendant or his attorney as provided in Article 463, Code of Criminal Procedure, which sworn application must be made at the time of the procuring of the subpoena, attachment for, or recognizance of, the witness. The Judge to whom an application for attachment is made may, in his discretion, grant or refuse such application, when presented in termtime.

(3). The witness shall make an affidavit stating the number of miles he will have traveled going to and returning from the Court, by the nearest practical conveyance, and the number of days he will have been necessarily absent in going to and returning from the place of trial; which affidavit shall be a part of the certificate issued by the clerk, copy of which is to be kept in a well-bound book. Fees shall not be allowed to more than two (2) witnesses to the same fact, unless the Judge before whom the cause is tried shall, after such case has been tried, continued, or otherwise disposed of, certify that such witnesses were necessary in the cause. Witness, when attached and conveyed by Sheriff, shall not be entitled to receive fees while in custody of such officer.

No witness subpoenaed, recognized, or attached for the purpose of proving the general reputation of the defendant shall be allowed the benefits hereof, provided the trial Judge may, in his discretion, allow pay to not more than two (2) character witnesses for the State and to not more than two (2) character witnesses for the defendant.

(4). The District or Criminal District Judge, when any such claim is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve same, in whole or in part, or disapprove the entire claim, as the facts and law may require; and such approval shall be conditioned only upon and subject to the approval of the State Comptroller, as provided for in Article 1035 of the Code of Criminal Procedure; and said claim with the action of the Judge thereon shall be entered on the Minutes of said Court; and upon the approval of said claim by the Judge, the Clerk shall make a certified list of said claim, upon forms prescribed by the Comptroller, furnishing such information as required by him, and send the same to the Comptroller at such times as he may require, for which service the Clerk shall be entitled to a fee of Fifty (50) Cents which shall be paid by the witness. The service mentioned in the foregoing sentence shall include the issuance of certificate, swearing the witness to claim for witness fees, and reporting to Comptroller, and witness shall not be required to pay any additional amount for the completion of the certificate.

(5). The Comptroller, upon receipt of such claim and the certified list provided for in the foregoing section, shall carefully examine the same, and if he deems said claim correct, and in compliance with and authorized by law in every respect, draw his warrant on the State Treasury for the amount due in favor of the witness entitled to same, or to any person such certificate has been assigned by such witness, but no warrant shall issue to any assignee of such witness's claim unless the assignment is made under oath and acknowledged before some person duly authorized to administer oaths, certified to by the officer and under seal. If the appropriation for paying such account is exhausted, the Comptroller shall file the same away and issue a certificate in the name of the witness entitled to same, stating therein the amount of the claim. All such claims not filed in the office of the Comptroller within twelve (12) months from the date same become due and payable shall be forever barred. As amended Acts 1941, 47th Leg., p. 688, ch. 430, § 1.

¹ Probably should be "1093."

Approved and effective June 2, 1941.

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

CHAPTER THREE—COSTS PAID BY COUNTIES

Art. 1041. 1143 Guards and matrons

The Sheriff shall be allowed for each guard or matron necessarily employed in the safe-keeping of prisoners Two and 50/100 (\$2.50) Dollars for each day. No allowance shall be made for the board of such guard or matron, nor shall any allowance be made for jailer or turnkey, except in counties having a population in excess of forty thousand (40,000) inhabitants according to the last preceding or any future Federal Census. In such counties of forty thousand (40,000) or more inhabitants, the Commissioners' Court may allow each jail guard, matron, jailer and turnkey Four and 50/100 (\$4.50) Dollars per day; provided that in counties having a population in excess of seventy-five thousand (75,000) inhabitants, and less than three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census, the Commissioners' Court of such counties may allow each jail guard, jailer, matron and turnkey a monthly salary of One Hundred Fifty (\$150.00) Dollars per month; provided further that, in counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants, according to the last preceding or any future Federal Census, each jail guard, matron, jailer and turnkey shall be paid not less than One Hundred Seventy-five (\$175.00) Dollars per month. As amended Acts 1941, 47th Leg., p. 843, ch. 518, § 1.

Filed without the Governor's signature, June 23, 1941.

Effective 90 days after July 3, 1941, date of adjournment.

Section 2 of the amendatory Act of 1941 declared an emergency but such emergency clause was inoperative under Const. art. 3, § 39.

TITLE 16—DELINQUENT CHILD

Art. 1090. Term of commitment

Care of delinquent children, see Vernon's Rev.Civ.St., art. 2338.

Art. 1091. Substitution of place of confinement

Care of delinquent children, see Vernon's Rev.Civ.St., art. 2338.

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Adjourned July 3, 1941.

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Adjourned Sept. 19, 1941

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